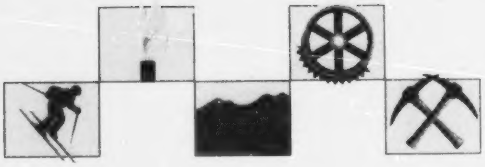
ENVIRONMENTAL ASSESSMENT OFFICE

# GUIDE TO THE BRITISH COLUMBIA ENVIRONMENTAL ASSESSMENT PROCESS

JANUARY 2001



BRITISH
COLUMBIA

# ACKNOWLEDGEMENTS

Karen Campbell, Staff Counsel to West Coast Environmental Law Association, prepared the initial revision of Parts A, B and C of the Guide to the British Columbia Environmental Assessment Process and Appendix 5 and 6. The Environmental Assessment Office finalized the revision after taking into account comments made by industry, local government and environmental group representatives of the Environmental Assessment Advisory Committee; First Nations representatives of the Environmental Assessment First Nations Working Group; and relevant provincial and federal agencies.

Part D of the Guide, Environmental Assessment Aboriginal Issues and Consultation, was prepared by the Environmental Assessment Office following discussions with First Nations' EA practitioners, proponents, and provincial and federal government officials.

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# ABOUT THIS GUIDE

This document, the *Guide to the British Columbia Environmental Assessment Process* (the Guide), is a revised and updated version of the original *Guide to the British Columbia Environmental Assessment Process* published in June 1995. It describes:

- the application information requirements for projects that must undergo environmental assessment (EA) under the *Environmental Assessment Act*, R.S.B.C. 1996, c. 119, as amended (the Act); and
- the process for reviewing and making decisions on such projects.

This Guide is intended to assist proponents, First Nations, and the public in understanding the EA process, and to promote good practice. This publication may be of interest to government and other project reviewers, as it augments direction to project reviewers contained in the *British Columbia Environmental Assessment Operations Manual.*

This revised version of the Guide outlines current operational practices with respect to the EA process and is reflective of the experience acquired during the five years since implementation of the Act. In particular, this revision incorporates changes in practice resulting from recent external reviews of the EA process and provides:

- greater emphasis on the pre-application stage;
- improved guidance for public consultation and public input;
- an updated First Nations consultation policy;
- improved guidance on coordination of EA reviews with other provincial land use and statutory permit reviews; and
- detailed information on coordinating federal EA reviews with the BC process.

The Guide is presented in five parts:

**Part A** summarizes BC's EA process and provides contextual information;

**Part B** provides detail on the process specifics;

**Part C** addresses key topics that relate to implementation of the EA process;

**Part D** provides detail on EA aboriginal issues and consultation; and

**Part E** provides copies of relevant supporting appendices.

The appendices include copies of the Act and regulations and the following documents: Guidelines for Preparation of an Application for Project Approval Certificate; Guidelines for Proponents on Consulting the Public in the Environmental Assessment Process; and Guidelines for Public on How to Participate in the Environmental Assessment Process. A table of cross-references between the Act and the pages in the Guide is provided as the final appendix.

Information on any further revisions and updates of this Guide will be made available on the Environmental Assessment Office (EAO) website at: www.eao.gov.bc.ca.

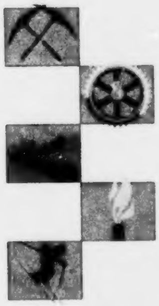
## DISCLAIMER

This Guide is not a legal authority and is not intended to provide legal advice or direction. This document should not be used as a substitute for the Act or regulations and provides information only. In the event of a discrepancy, the Act and regulations prevail. Portions of the Act have been paraphrased in the Guide, and should not be relied upon for legal purposes. The approaches described in this Guide may be deviated from where appropriate. The EAO disclaims liability in respect of anything done in reliance, in whole or in part, on the contents of this Guide.

## WHO TO CONTACT FOR FURTHER INFORMATION

The Guide provides detailed information on the EA process. Proponents are strongly encouraged to contact the EAO when determining whether a project requires review and for information on the EA process.

For further assistance on any aspect of the EA process, please contact the EAO in Victoria.



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**Phone:** (250) 356-7441 (Victoria). Toll-free calls through Enquiry BC at: 1-800-663-7867 or (604) 660-2421 (Vancouver)

**Fax:** (250) 356-7440

**Email:** eaoinfo@gems5.gov.bc.ca.

**Website:** www.eao.gov.bc.ca. The EAO website provides electronic access to the Project Registry and also contains news releases, information on special projects, this Guide, and information on amendments to the Act and regulations.

## HOW TO ACCESS THE PROJECT REGISTRY

The Project Registry maintains lists of projects that are being reviewed or have been reviewed under the EA process. Documentation on projects currently being reviewed is available for public inspection at the Project Registry during normal office hours (8:30 a.m. to 4:30 p.m., Monday to Friday except statutory holidays), at satellite Registry repositories (where established), and may also be available on the website. In order to determine if records are available at a satellite repository in a specific region and at which locations, call the EAO Project Registry.

**You may access the EAO Project Registry documentation in three ways:**

i) **Project Registry – Environmental Assessment Office:**

$1^{st}$ Floor, 836 Yates Street
Victoria, British Columbia
V8V 1X4

Phone: (250) 356-7441 (Victoria)
Toll-free calls through Enquiry BC at 1-800-663-7867 or
(604) 660-2421 (Vancouver)
Fax: (250) 356-7440

ii) **Satellite Project Registry:** a satellite repository may be established in communities near the proposed project (e.g., school or public library, post office, band office)

iii) **Virtual/internet:** www.eao.gov.bc.ca

# GLOSSARY OF TERMS

**Act** — British Columbia *Environmental Assessment Act.*

**Application** — an application for a project approval certificate that is filed by a proponent in accordance with section 7 of the Act.

**Application Guidelines** — Guidelines for the Preparation of an Application for a Project Approval Certificate.

**Baseline Monitoring** — the process of collecting information on biophysical or socio-economic conditions at the site or in the vicinity of a proposed project, to enable a determination of project effects through before and after comparisons.

**Chair** — the Environmental Assessment Office Project Assessment Director delegated authority to chair a project committee and generally oversee all aspects of a project review.

**Comments** — the formal response, advice and informed opinion about a project submitted to the Project Committee Chair.

**Environmental Assessment (EA)** — environmental assessment is a project planning tool and information-gathering process. It measures the potential impact of proposed projects and identifies ways to avoid, mitigate or compensate potential impacts.

**Environmental Assessment Office (EAO)** — the provincial organization that is responsible for administration of the Act and regulations.

**Executive Director** — the government official appointed to oversee all aspects of EAO operations. The Executive Director is the Deputy Minister of the EAO.

**First Nations** — an aboriginal governing body or bodies, however organized and established by aboriginal people within their traditional territory in British Columbia.

**Issues** — an identified concern, question or indication of support regarding potential effects of a proposed project.

**Mitigation** — measures for controlling, reducing or eliminating an adverse impact of a development on the environment or community, including restorative measures.

**Minister** — the Minister of Environment, Lands and Parks.

**Ministers** — the Minister of Environment, Lands and Parks, and the Responsible Minister.

**Permit Review** — review processes associated with approvals required under various statutes for the project design, construction, start-up of operations, or access to Crown land. Permit reviews normally require detailed information relating to the design of project infrastructure and facilities, and of proposed operational practices. Detailed analysis and assessment of this information by agencies is necessary prior to the issuance of approvals, permits or tenures, as the case may be, by individual regulatory agencies.

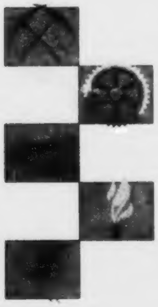
**Post-certification Issue** — issues which are reviewed during the regular permitting/approval review processes.

**Project Approval Certificate** — a certificate issued under the Act reflecting government's "approval in principal." The certificate allows a proponent to proceed with applications for any necessary project development permits and approvals.

**Project Assessment Director** — the government official delegated authority to chair a project committee and generally oversee all aspects of a project review.

**Project Committee** — a committee established under the Act to review applications for a project approval certificate and, if necessary, a project report. The committee may include representatives of provincial agencies, federal agencies, local governments, First Nations and neighbouring jurisdictions.

**Project Committee Recommendations Report** — a report to Ministers prepared by the project committee, that summarizes the application and/or project report review and includes recommendations.



**Project Report** — the report submitted by the proponent that is intended to address issues that were not sufficiently resolved during the review of the application.

**Project Report Specifications** — the terms of reference that are provided to the proponent for preparing a project report.

**Proponent** — any person that proposes to undertake a reviewable project in British Columbia, including the government of Canada, British Columbia, First

Nations, a company, a municipality, a regional district, another province or another jurisdiction.

**Public Advisory Committee** — a committee comprised of members of the public that may be established to provide advice and recommendations to a project committee.

**Project Committee Member** — a member of a project committee who participates directly in committee proceedings.

**Regulations** — the regulations that are in effect pursuant to the *Environmental Assessment Act*, namely the Reviewable Projects Regulation and the Prescribed Time Limits Regulation.

**Responsible Minister** — the Minister designated by Cabinet who shares decision-making authority with respect to project approval with the Minister of Environment, Lands and Parks. The Responsible Minister is usually the Minister with key programming or regulatory responsibility for the project sector.

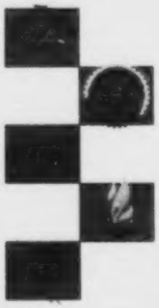
**Review Agency** — an agency or organization that receives and comments on project review documentation (but is not represented by a regular project committee member).

**Screening** — the process for determining whether or not an application or a project report is accepted for EA review by the Executive Director.

**Technical Advisor** — a representative of an agency or organization, or a consultant hired by an agency or organization, who supplies expertise on particular assessment topics to the project committee member or review agency with whom he/she is associated.

# COMMONLY USED ABBREVIATIONS

| | |
|---|---|
| **CEAA** | Canadian Environmental Assessment Act |
| **EA** | Environmental Assessment |
| **EA Board** | Environmental Assessment Board |
| **EAO** | Environmental Assessment Office |
| **MELP** | Ministry of Environment, Lands and Parks |
| **RA** | Responsible Authority under the Canadian Environmental Assessment Act |



# PART A – INTRODUCTION

## 1.0 WHAT IS ENVIRONMENTAL ASSESSMENT?

Environmental assessment (EA) is a project planning tool and information-gathering process. It measures the potential impact of proposed projects and identifies ways to avoid, mitigate or compensate potential impacts. The term environmental assessment is often used interchangeably with environmental impact assessment and/or project assessment.

An EA typically includes:

- technical studies of potential environmental, social, economic and other effects of project proposals;
- identification of ways to prevent or minimize undesirable impacts of development projects;
- opportunities for government agencies and the public to identify issues and provide input to development proposals; and
- consideration of agency and public input in project approval decisions.

EA is an accepted part of major project planning in many jurisdictions throughout the world. The results of EA reviews are an important means of informing government and proponent decision-making. In Canada, most jurisdictions have legislated an EA process to assist in making decisions on whether large-scale projects should proceed to development. Many EA processes require indigenous peoples' consultation.

## 1.1 BENEFITS OF ENVIRONMENTAL ASSESSMENT

EA provides for early identification of baseline conditions and potential project impacts, and for evaluation of effects before irreversible project design decisions are made. Having this information available early in project planning can lead to better project design by encouraging the proponent (or project developer) to modify and improve the design of the project in response to identified issues.

Public participation in an EA review may result in increased acceptance of the project by the community and may reduce regional resource and land use conflicts.

An EA review offers an opportunity for project proponents to forecast the costs and benefits of any necessary mitigation measures and may allow for thorough consideration of project alternatives. The up-front planning, consultation, and coordinated decision-making that is accomplished through an EA may reduce overall project approval time and cost requirements.

EA approval of a project confirms the ‘acceptability-in-principle’ of a project. This provides proponents with the certainty that is needed to justify the investment into the more detailed project planning associated with statutory permit approvals and project development. Ultimately, EA is a tool for contributing to a sustainable environment and economy.

## 2.0 PURPOSE AND OVERVIEW OF BC’S ENVIRONMENTAL ASSESSMENT PROCESS

The British Columbia *Environmental Assessment Act* (the Act, see appendix 1) came into force in June, 1995. The Act establishes the provincial EA process for large-scale projects that are classed as “reviewable”. Development cannot proceed on reviewable projects until the project assessment is complete, a project approval certificate is issued, and all necessary permits and licenses are obtained.

The legislated EA process provides for a strategic-level evaluation of projects within the scope of a sustainable economy and environment. The EA process results in a decision by two Ministers or Cabinet on whether or not a project approval certificate should be issued.

Permitting, licensing and approval processes (statutory permit processes) may proceed concurrently with the strategic-level EA review or may, at the proponent’s option, follow project certification. However, no statutory permit approvals may be issued before EA project certification. Statutory permit approval processes are normally more detailed than the EA level of review.

The goal of the Act is to establish a thorough, timely and integrated process for assessing environmental, economic, social, cultural, heritage, and health effects of major development proposals in BC. The Act also establishes the Environmental Assessment Office (EAO) which is responsible for administering the EA process.

The intent of the EA process is to identify any foreseeable adverse impacts through the project’s life-cycle including construction, start up, operation and shut-down and to determine ways to eliminate, minimize (mitigate) or compensate impacts. The process identifies the potential effects of the project on community values and provides information on the nature of public support for a project.

## 2.1 KEY FEATURES

The EA process is characterized by the following key features:

**Thresholds-based** — only larger-scale projects with associated potential for significant impacts are subject to EA review. The Reviewable Projects Regulation (see appendix 2) specifies the types and sizes of projects that must be reviewed. The Act also includes the opportunity for projects not named in the regulation to be classed as reviewable, on a case by case basis.

**Strategic Level** — The EA process concentrates on *significant* environmental, economic, social, cultural, heritage and health issues that need to be addressed as a basis for a political approval-in-principle decision. All issues identified during the process are recorded. Significant approval-level issues are considered during the EA review. Issues relating to technical details of project design and operation are normally considered during statutory permit review processes.

**Neutral Administration** — The EA process is administered by the EAO, an independent provincial agency with responsibility for delivering the EA process in an open, accountable and neutral manner. The EAO has professional staff that lead and coordinate project reviews according to the procedures defined in the Act and regulations.

**Coordinated with Federal Requirements** — When a project triggers both a federal and provincial EA review, federal legal requirements are covered-off during the provincial EA process. Each government makes a separate project decision at the end of a joint review.

**Staged Process** — The EA process is designed to identify issues and tailor impact study requirements to the project circumstances. The process progressively resolves and narrows the consideration of issues through up to three review stages.

**Time Limited** — Time limits for government controlled activities are set by regulation to increase certainty of the EA process. The Prescribed Time Limits Regulation (see appendix 3) specifies time frames for the approximately 20 different steps in the process that may be undertaken by process administrators and decision-makers. The time limits allow process participants to plan their participation with greater certainty.

**Review by Committee** — One of the first steps in a project assessment is the formation of a project committee for reviewing applications for project approval certificates and providing project assessment advice and recommendations to the

EAO and Ministers. Project committees are chaired by the EAO and may include representatives from provincial, federal and local governments, First Nations whose traditional territory includes the site of the project or is in the vicinity of the project, and British Columbia's neighbouring jurisdictions in the vicinity of the project.

**Inclusive** — The EA process allows extensive opportunity for public participation in project reviews and provides for public notification, information and an opportunity to comment on project proposals. The EA process requires that proponents undertake early and ongoing consultation to identify and resolve public issues. The proponent's public consultation program is reviewed and monitored by the project committee. The EAO undertakes additional public consultation where appropriate. All public input must be considered by the project committee in completing its review and making recommendations.

**Open Reviews** — The public can view project documentation such as applications, project reports, public and final agency comments, and recommendations and decisions at the Project Registry in Victoria and on the EAO's website. Key documents may also be housed regionally at satellite repositories located near the proposed project.

**First Nations Participation** — First Nations, whose traditional territory includes the project site or is near a proposed project, are invited to sit on the project committee and are consulted by the proponent and the EAO during the assessment process. Project reviews include an assessment of any potential impacts on First Nations' interests.

**Coordinated and Optional Concurrent EA and Permit Reviews** — Efforts are made to ensure that the EA and other statutory permit approval review processes are coordinated and do not duplicate each other. Information-gathering and consultation for an EA review is relied upon as appropriate by permit reviews to avoid duplication of effort. At the proponent's option, the review of applications for certain permits and licenses required under other statutes may be undertaken by regulatory agencies concurrently with the EA review.

## 2.2 A BRIEF DESCRIPTION OF THE ENVIRONMENTAL ASSESSMENT PROCESS

The Act and regulations contain a considerable amount of prescriptive detail on how the EA process must be carried out. Requirements are described for:

- the types and sizes of projects that must go through the EA process;
- information that must be provided;
- who must be involved and the methods for involvement;
- the sequence of steps to be followed; and
- time limits for completing certain activities.

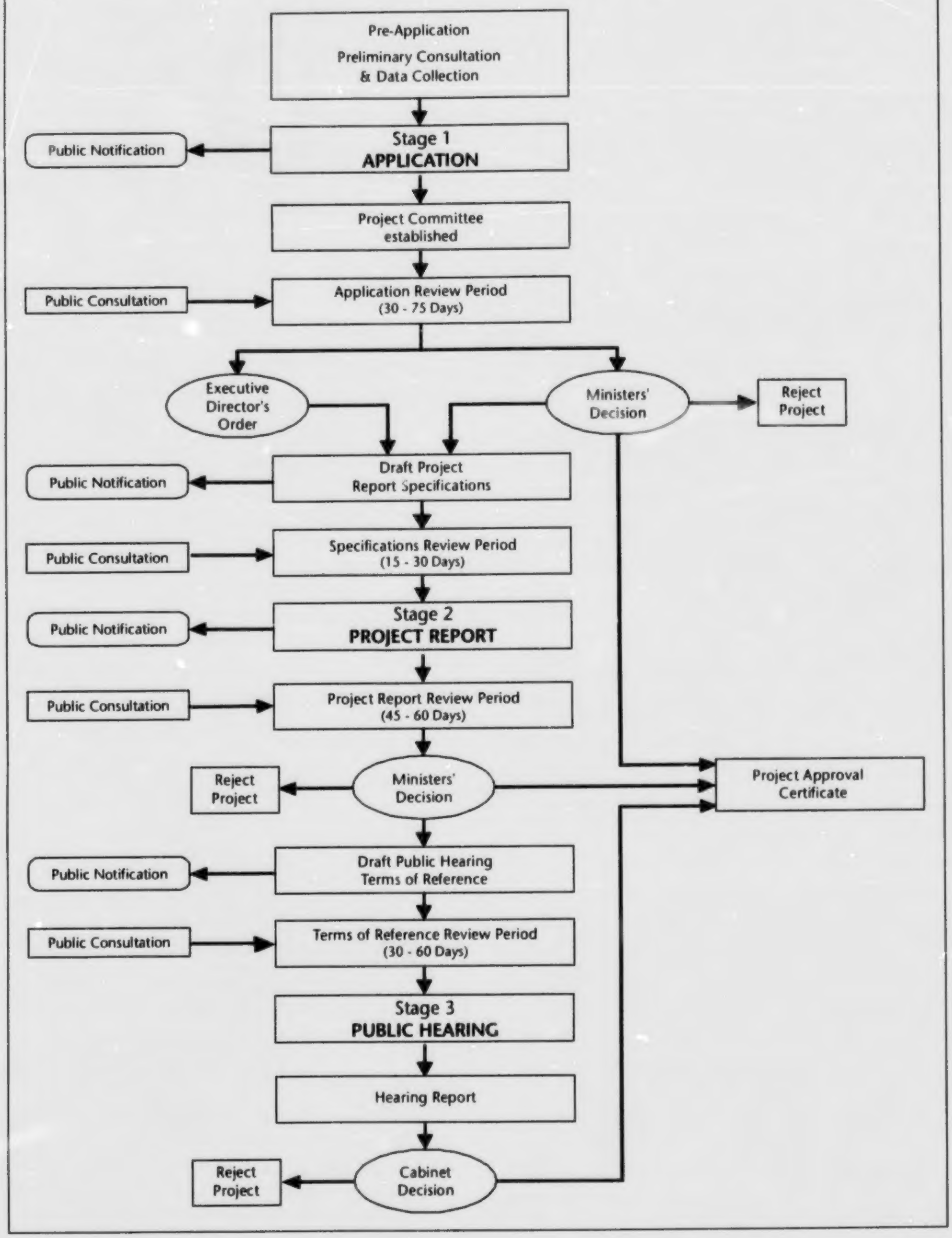
All these requirements are defined in the Act in order to make the process more certain and predictable for the parties involved in an EA review. Part B of this Guide provides a detailed description and explanation of the specific process steps and requirements.

The most fundamental characteristic of the BC process — similar to EA processes in many jurisdictions — is its staged sequence. The process moves from an application (stage 1) to a project report (stage 2) to a public hearing (stage 3) as outlined in Figure 1. Not all stages are necessarily required; a project decision may be made at the end of any of these stages.

The staged process offers a single, consistent process for conducting project assessments. Depending on the completeness of the initial application for a project, reviews range from one to three stages. The second and third stages deal with issues not resolved at the previous stage(s). Decisions are made at the end of each stage, and public and First Nations input is encouraged throughout. The decision to approve or reject a project is made by the Ministers or full Cabinet. The staged approach of the EA process offers the potential to address key issues at the appropriate level of investigation.

The following is a brief description of each stage of the EA process. A more detailed description of the process is provided in Part B. Information on the relevant time limits for each stage is provided in Part C.

**Figure 1: Overview of the EA Process**



Pre-Application
Preliminary Consultation & Data Collection
Stage 1
APPLICATION
Public Notification
Project Committee established
Public Consultation
Application Review Period (30 - 75 Days)
Executive Director's Order
Ministers' Decision
Reject Project
Draft Project Report Specifications
Public Notification
Public Consultation
Specifications Review Period (15 - 30 Days)
Public Notification
Stage 2
PROJECT REPORT
Public Consultation
Project Report Review Period (45 - 60 Days)
Reject Project
Ministers' Decision
Project Approval Certificate
Public Notification
Draft Public Hearing Terms of Reference
Public Consultation
Terms of Reference Review Period (30 - 60 Days)
Stage 3
PUBLIC HEARING
Hearing Report
Reject Project
Cabinet Decision

## PRE-APPLICATION

Although not a formal requirement of the EA process, proponents are encouraged to undertake initial consultation with the EAO, government agencies, the public and First Nations prior to submitting the application.

## STAGE 1: APPLICATION REVIEW

The proponent submits the application to the EAO. Once the Executive Director of the EAO (Executive Director) determines that the application meets the Act's information requirements, a project committee is established and the application is filed on the Project Registry and satellite repositories, posted on the EAO website, and circulated to government agencies, First Nations, and the public for comment.

The project committee reviews the application, considers all input, and makes recommendations to the Executive Director. The Executive Director may order that the project proceed to further review in the project report stage (stage 2), or refer the application to Ministers to decide whether the project should be approved or rejected. Ministers may also order the project to go to the project report stage.

## STAGE 2: THE PROJECT REPORT REVIEW

If the Executive Director or Ministers determine that not all issues were resolved during the application review stage, more detailed information from the proponent in the form of a project report is requested.

The project committee drafts project report specifications, which are circulated to government agencies, First Nations, and the public for comment. The specifications are finalized by the Executive Director on the recommendation of the project committee.

The proponent prepares and submits a project report according to the specifications. Once the Executive Director, on the recommendation of the project committee, determines that the project report meets the specifications, the project report is filed on the Project Registry and satellite repositories, posted on the EAO website and circulated to government agencies, First Nations, and the public for comment.

The project committee reviews the project report, considers all input, and makes recommendations to the Executive Director. The Executive Director refers the project report to the Ministers to decide whether the project should be approved, rejected or referred to the Environmental Assessment Board (EA Board) (stage 3) for a public hearing.

### STAGE 3: THE PUBLIC HEARING

The Ministers may refer the project to an EA Board public hearing. Draft hearing terms of reference are prepared by the Ministers and filed on the Project Registry and satellite repositories, posted on the EAO website, and circulated to government agencies, First Nations, and the public for comment. After considering public comments, final hearing terms of reference are issued by Ministers. The EA Board then conducts a public hearing. After the hearing is completed, the Board submits a final report and recommendations to Cabinet for decision.

### PROJECT DECISION

If approved by Ministers or Cabinet, a project approval certificate (certificate) is issued and the proponent may then proceed with necessary statutory permit applications to construct and operate the project. If rejected, a proponent may not proceed with project development and any project proposal would have to be revised before any new application for project approval would be considered. There is no appeal for decisions made by the Ministers or Cabinet.

## 2.3 LINKS BETWEEN THE ENVIRONMENTAL ASSESSMENT PROCESS AND OTHER LAND USE AND PROJECT APPROVAL PROCESSES

This section provides an overview of the relationship between the EA process, land use planning processes, and other key provincial, local and federal approval processes that may relate to project reviews.

In addition to EA approval, proposed projects may need to consider land use plans and may require local land use approvals (e.g., re-zoning), and/or other government statutory permit approvals such as permits or licenses to authorize project construction, waste discharge, and any right to access, use or modify Crown land or resources. Each project is unique in terms of the land use and statutory permit approvals that will be required. Proponents are advised to discuss all project approval issues with the EAO as well as the relevant government agencies.

The EA process results in a strategic decision on whether or not a proposed project may be developed. EA approval does not mean that a proposed project is necessarily consistent with provincial-level or local land use plans, nor does it mean that any necessary statutory permit approvals will be granted automatically.

### 2.3.1 LAND USE PLANNING

The EA process is limited to assessing projects within the prevailing land use framework. EA is strictly a project-specific review mechanism; it was not designed as a land use planning mechanism, and has no jurisdiction to perform this function. However, the EA process does examine the effects of projects on adjacent land uses, and determines the degree to which adjacent pre-existing land uses may be affected by the proposal. In this sense, land use planning is relevant to the consideration of major project developments in BC because it provides guidance on where such development projects may be considered, and a management framework against which the project parameters will be measured.

Provincial and local governments share authority to develop land use policy and planning frameworks. Where a recognized provincial or local government land use plan exists, the EA process evaluates the degree of compatibility of a development proposal with any specified objectives. The weight given to this part of the assessment depends on the status of the plans in question and whether they are confirmed government policy.

There are essentially two types of land use plans in BC that may be relevant to projects that are undergoing EA review. The first are plans that are prepared by the provincial government for Crown land and resources. The second are plans prepared by local governments for municipalities and regional districts. Each of these is briefly discussed below.

**Provincial land use planning** — the BC land use planning process establishes resource management "zoning" and objectives for a particular area. Comprehensive regional and sub-regional land use plans (such as Land and Resources Management Plans [LRMPs] and the Protected Areas Strategy) have been completed or are underway for much of BC. These plans define:

- areas which will be set aside for permanent protection;
- areas in which some resource development may take place, but with special management to protect key non-resource values such as community watersheds or wildlife habitat;
- general use areas where a full range of resource values are considered in an integrated manner; and
- enhanced development areas where increasing resource development values are emphasized, provided basic biodiversity is protected.

Although the land and resource objectives contained in the provincial level plans may provide important insights and guidance about the appropriateness of a proposed project, decisions on project approval or rejection are made through the EA process. Crown land and resource plans, which may exist at the regional, sub-regional and local levels, normally define provincial resource management objectives and strategies, but do not prescribe whether or not site-specific land uses are permitted. Crown land and resource plans are approved in policy — they do not have legal status, although certain aspects of the plans may be implemented via statutory mechanisms such as the Forest Practices Code.

**Local government land use management and planning** — in BC, the local level of government — incorporated municipalities, and regional districts with regard to unincorporated areas — has primary responsibility and authority for managing development and use of private land. The *Local Government Act* is the principal enabling legislation for local governments. It recognizes that local governments are an independent, responsible and accountable level of government within their jurisdiction.

Local government plans are prepared under the authority of the *Local Government Act*. They may result in zoning or other by-laws that can have a significant bearing on proposed project developments. If a proposed project involves a land use that does not comply with an approved official community plan, an associated zoning by-law, or some other local government by-law for regulating environmental or resource protection, the proponent must either obtain a change or variance in the by-law(s), or must alter the project to comply with the by-law(s). Local governments also typically require developers to obtain various permits for building structures on lands that are within the regulatory control of the local government. In addition, local governments in regional districts may cooperate to develop regional growth strategies, which establish where and how settlement growth will be managed in the region. A proposed development project may or may not conform with regional growth management policies.

Even if a proposed development project obtains approval under the Act, there is no guarantee that the affected local government(s) will approve the necessary zoning amendments or development approvals. Proponents are encouraged to discuss project proposals with local government, and local government representatives are invited to sit on project committees. In this manner, the impacts on local planning and zoning can often be addressed concurrently with the EA review.

### 2.3.2 PROVINCIAL STATUTORY PERMIT AND LICENSING REQUIREMENTS

In addition to EA project approval, most reviewable projects will require statutory permit approvals associated with project design, construction, operation and/or access to Crown land and resources. Examples of statutory permit approvals include:

- waste permits associated with project design, construction and/or operation issued under the *Waste Management Act;*
- mine permits issued under the *Mines Act;*

- water use or diversion licenses issued under the *Water Act;*
- leases, licenses or rights-of-way issued under the *Land Act* that enable proponents to access and construct facilities on Crown land;
- special use, cutting or road building permits issued under the *Forest Act* or the *Forest Practices Code of British Columbia Act* to enable clearing and remove Crown timber from the project site; and
- road certificates issued under the *Highway Act.*

Efforts are made during the EA review to ensure that permit information and consultation requirements are identified and satisfied to the greatest extent possible during the EA review and that any post-EA reviews for statutory permit approvals are coordinated (see section 12 of this Guide). In addition, proponents have the option of requesting that certain permit applications be reviewed concurrently with the EA review (see section 13 of this Guide).

### 2.3.3 FEDERAL PERMIT REQUIREMENTS

Requirements for federal permits, authorizations and approvals may trigger the federal EA process under the *Canadian Environmental Assessment Act* (CEAA). As discussed briefly below in section 2.5, and more fully in section 18, the federal and provincial governments are committed to minimizing EA process duplication and ensuring a one-window approach to EA review.

## 2.4 FIRST NATIONS ISSUES

Much of BC is subject to unresolved land claims by First Nations. When the Act was developed, BC had embarked upon a new aboriginal policy, which included negotiating land claims. As a result, provisions for inviting First Nations to sit with other levels of government on project committees were included in the Act.

Besides these provisions in the Act, there have been numerous court cases in the past few years about aboriginal rights and title, which have led to a general provincial policy on First Nations consultation. Part D of this Guide, Environmental Assessment Aboriginal Issues and Consultation, offers suggestions as to how aboriginal consultation can be made consistent with these legal developments, and with provincial government policies. In addition, the EAO has Aboriginal Relations Coordinators who can advise on specific issues relating to aboriginal government and consultation issues.

## 2.5 FEDERAL — PROVINCIAL COOPERATION

In BC, and all other provinces, a proposed development may be reviewable under both CEAA and the provincial EA process. The Canada-Wide EA Harmonization Accord encourages elimination of duplication between federal and provincial EA processes. In addition, Canada and BC have concluded a bilateral EA cooperation agreement for situations where both Acts apply to a project review. Under the cooperation agreement, projects that are subject to both the federal and BC process are handled by the single BC review process, which is designed to meet both federal and provincial requirements. For these situations, the federal government delegates its EA process responsibilities, but not its decision-making responsibilities, to the BC EAO (see section 17 of this Guide for further information).

## 2.6 INTER-JURISDICTIONAL ISSUES

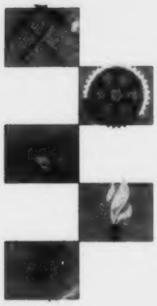
Where environmental effects of a project may extend beyond the BC border, neighbouring jurisdictions — for example, Alberta, Alaska and Washington — are invited to sit on the project committee. In this manner, the inter-jurisdictional implications of a project proposal can be addressed effectively within the EA process.

## 3.0 WHEN DOES BC'S ENVIRONMENTAL ASSESSMENT ACT APPLY?

BC's EA process is triggered only for reviewable projects. A reviewable project is one which meets the thresholds set out in the Reviewable Projects Regulation or has been specifically designated as reviewable by the Minister of Environment, Lands and Parks (the Minister).

## 3.1 REVIEWABLE PROJECTS

Reviewable projects include those projects captured by the category and threshold triggers set out in the Reviewable Projects Regulation (see appendix 2). The project thresholds normally relate to size, production capacity or type. Table 1 shows the categories of projects that are reviewable.

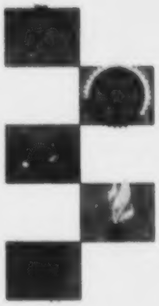


Urban housing developments are not included as a category of reviewable projects in the Reviewable Projects Regulation because authority for local land use planning and control of development on private lands lies with local governments in BC. Similarly, the Act does not apply to stand-alone forest management activities regulated under the *Forest Practices Code of British Columbia Act*. However, certain wood processing facilities and forest practices may be reviewable where specifically designated by regulation, or where forest practices relate to the construction, operation, modification, dismantling or abandonment of a reviewable project (e.g., site clearing required for a hydro-electric dam or mine).

**Table 1: Project Categories for EA Reviewable Projects**

Projects that exceed the thresholds set out in the Reviewable Projects Regulation in the following categories require an EA review:

| | |
|---|---|
| Energy Projects | Transmission lines and pipelines; energy storage, conversion or processing facilities; natural gas processing plants; power plants; and off-shore oil and gas facilities. |
| Food Processing Plants | Meat packing, and fish and poultry processing plants. |
| Industrial Projects | Chemical, primary metal, non-metallic mineral, and forest product industries; pharmaceutical products, fiber and textile industries; tire and tube industries; leather tanneries and lead-acid battery operations. |
| Mine Projects | Coal, mineral, sand and gravel operations, placer mines, construction stone and industrial mineral quarries, and offshore mines. |
| Tourism and Recreational Projects | Destination resorts. |
| Transportation Projects | Public highways, railways, ferry terminals, marine port facilities and airports. |
| Waste Management Projects | Special waste facilities, and local government solid and liquid waste management facilities. |
| Water Management, Containment and Diversion Projects | Dams, dykes, and water diversion, groundwater extraction, and shoreline modification projects. |



## 3.2 PROJECT COMPONENTS AND PHASES

A reviewable project includes:

- the facilities at the main site of the project; and
- any offsite facilities and any activities related to the project that the Executive Director may designate.

The review may include facilities or activities related to the project where the EAO determines that the impacts may not be adequately addressed under the established statutory permit approval processes. The review process may consider all phases of a project's lifecycle: construction, operation, modification, dismantling and abandonment. The dismantling and abandonment phases are given more emphasis for projects with a definite life expectancy, such as mines. For projects that have a long life or may never close, such as public highways, the dismantling and abandonment phases will not be addressed by the EA process.

## 3.3 DISCRETIONARY DESIGNATION OF PROJECTS AS REVIEWABLE

In addition to the automatic review of projects specified in the Reviewable Projects Regulation, the Minister has the discretion to designate a project to be a reviewable project, and thus be subject to EA. Although this provision is not intended to be applied on a routine basis, projects may arise, from time to time, that are not included in the Reviewable Projects Regulation but which merit assessment under the Act.

In exercising the discretionary authority to designate a project as reviewable, the Minister must be satisfied that the project may have a significant adverse effect, and that designation is in the public interest. This provision may only be applied where the proponent has not substantially started construction at the time of designation or acquired the necessary approvals.

Some of the factors that may be assessed for possible discretionary designation of a project as reviewable under the Act include whether or not:

- there is a clearly identified provincial interest in an environmental, economic, cultural, heritage, health or social matter;
- there is potential for an adverse effect that is of regional, provincial, national or global significance;
- there is a material risk that existing local, regional, provincial or national processes will not be able to effectively or adequately deal with the identified provincial interest or adverse effect;

- the local government in question has expressed an interest in a provincial EA review;
- the provincial government has a significant role in the review, approval, monitoring and/or enforcement activities related to the project, and/or could be involved in resolving any operating difficulties that the development may encounter, once underway;
- the project plan is defined in sufficient detail for effective assessment under the Act, and the provincial EA process represents the best available method to address the identified issues;
- the provincial EA process would substantially duplicate local or other government processes; and
- the local government approval process has just begun or is substantially completed.

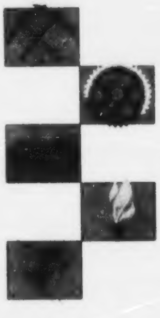
## 3.4 TRANSITION FROM FORMER REVIEW PROCESSES

When the Act came into force in 1995, the EA process replaced existing review processes for large-scale projects. The Transition Regulation caused projects that were previously subject to review under the Energy Project Review Process, the Mine Development Assessment Process or the Major Project Review Process to have their reviews completed under the Act. Projects approved under any of these former processes are deemed to hold a project approval certificate under the Act, and are subject to its enforcement and monitoring provisions.

# 4.0 ROLES AND RESPONSIBILITIES IN THE ENVIRONMENTAL ASSESSMENT PROCESS

## 4.1 THE PROPONENT

Proponents are responsible for making necessary applications for EA, land use and statutory permit approvals. Depending upon the complexity of the project and the business requirements of the proponent, the proponent may request that the permit reviews proceed concurrently with the EA review, rather than following project certification.



The proponent is responsible for knowing if their project requires an EA review, conducting studies, and preparing the application and other associated materials. The proponent is also responsible for advertising the availability of the application, producing and distributing the application and, if required, the project report. The proponent has primary responsibility for directly consulting with the public and First Nations to identify issues and develop an understanding of community values and the level of support for a project. The consultation programs will be monitored and evaluated by the EAO.

## 4.2 THE ENVIRONMENTAL ASSESSMENT OFFICE AND PROJECT REGISTRY

### 4.2.1 ENVIRONMENTAL ASSESSMENT OFFICE

The EAO leads project assessments according to the requirements established in the Act and regulations. The EAO ensures that reviews are coordinated, to the greatest extent possible, with relevant land use and statutory permit approval processes. The Executive Director of the EAO is appointed by Cabinet. Normally, the Executive Director delegates authority for leading project assessments and chairing project committees to Project Assessment Directors employed by the EAO. At the end of the first or second stage of review, the Executive Director refers projects for decision to the Ministers.

The principal functions of the EAO are to ensure that:

- project reviews are carried out in accordance with the purpose of the Act;
- project reviews identify and resolve the key issues raised during a review;
- the potentially affected government interests — including relevant federal and provincial agencies, local governments, First Nations and other jurisdictions — have the opportunity for direct participation in the EA process;
- the public is made aware of proposed projects, has access to information on proposed projects, is consulted and provided with the opportunity to give input to project reviews;
- proponents, project reviewers and the public receive the necessary guidance to enable them to meet the spirit and provisions of the Act and regulations; and
- the Ministers are provided with EA review information and recommendations on project proposals.

### 4.2.2 THE PROJECT REGISTRY

To ensure that the public has access to project assessment information, key project documentation is made available on the EAO Project Registry. The Project Registry contains a list of all projects under review and a listing of project review documents, including notices, project correspondence, applications, project report specifications, project reports, EA Board reports, public comments, and project approval certificates. Section 62(2) of the Act (see appendix 1) lists all of the documents that the EAO must file on the Project Registry.

The Project Registry in Victoria is the central repository for project assessment records and documents. Project documents may also be housed regionally at satellite repositories and may be posted on the EAO website. For information on how to access the Project Registry and the EAO website see the preface to this Guide.

The Prescribed Time Limits Regulation specifies the time frames within which the EAO must file prescribed documents on the Project Registry. Generally, filing on the Project Registry must be completed within seven days of receipt or acceptance of a document by the EAO. The only exceptions are longer periods set for filing recommendation reports from the project committee and Environmental Assessment Board (EA Board).

## 4.3 THE PROJECT COMMITTEE

A project committee is established for every project assessment. Members include:

- local, provincial, and federal government representatives who typically have regulatory or program responsibilities in relation to the project;
- First Nations whose traditional territory includes the site of the project or is in the vicinity of the project; and
- neighbouring jurisdictions in the vicinity of the project.

The project committee is the primary source of policy and technical expertise for considering issues identified during a project assessment. Project committees are normally chaired by a Project Assessment Director of the EAO who is delegated authority under the Act from the Executive Director.

In addition to conducting the EA review, the project committee identifies information and consultation requirements for provincial statutory permit approvals. It also identifies federal information needs where a review is conducted as a joint federal/provincial review.

Once the project committee is established, government agencies or First Nations that are not represented on the committee may be invited to attend committee meetings, or join the committee where there are specific issues which affect that party, or about which that party has special expertise. As the need arises, each project committee member may invite technical reviewers and advisors from their organization to attend committee meetings to provide review input.

Project committee members are expected to represent their agency, and are accountable to the mandate, established policies, procedures and performance standards of their organization. Overall, the project committee is responsible, under the EAO's direction, for ensuring that the project review:

- occurs according to the provisions of the Act, regulations and EAO policies and procedures;
- is comprehensive and technically sound; and
- involves all of the potentially interested parties.

Project committees operate as a forum for:

- reviewing applications and all associated documents for project review; and
- providing project assessment advice and recommendations to the Executive Director in the formulation of recommendations to Ministers.

More specifically, project committee members:

- assess the adequacy of the proponent's public and First Nations consultation;
- analyze input received from the public, government agencies, and First Nations in response to invitations to comment at various stages of project review;
- assess the potential effects of projects, and the potential to prevent or mitigate adverse effects of projects;
- summarize all permit information, consultation requirements and review details; and
- provide project assessment advice and recommendations to the Executive Director in the formulation of recommendations to Ministers.

The project committee's recommendations are provided to the Ministers and filed on the Project Registry.

## 4.4 FIRST NATIONS

The EA process includes requirements for First Nations consultation and provides for meaningful participation by First Nations whose traditional territory includes, or is in the vicinity of, the project (see Part D of this Guide). A First Nations organization may join the project committee, or it may choose to only review and comment on project documents.

## 4.5 THE PUBLIC

The EA process is intended to function as a balanced and open process, which includes participation by all interested members of the public. A key feature of the EA process is the legislated responsibilities and opportunities relating to public participation in the review of proposed projects (see Appendix 6).

The Act establishes specific notification and information requirements and provides clearly established opportunities for citizens to identify their issues about a project. Every application, comment, report and decision in the review process must be filed on the Project Registry and may also be made available on the EAO website. The EA process establishes requirements for early and ongoing meaningful public consultation by the proponent and the EAO to identify issues and resolve public concerns. The Act requires that project reviewers consider public comment when formulating recommendations for government decision-making.

### 4.5.1 PUBLIC ADVISORY COMMITTEES

In addition to the EAO and proponent EA consultation requirements, the Act provides for the establishment of a public advisory committee (PAC) at the discretion of the Executive Director. Where established, a PAC would be expected to provide a forum for:

- identification and discussion of public views and concerns, and
- providing advice and recommendations on issues to the project committee managing the process.

Membership on a PAC would reflect a broad range of public views on, and interests in, the project.

The decision to establish a PAC is discretionary. Factors which could be taken into consideration when determining if such a committee should be formed include:

- the extent of public interest and concern;
- evidence of a significant range of public views;
- the need for a structured forum for public discussion;
- whether the committee would address issues not otherwise raised by the technical review agencies, First Nations and the public during the review;
- the need to co-ordinate and integrate public input on a project; and
- whether such a committee would bring perspectives on the review under the Act not otherwise accessible.

In evaluating the above factors, the adequacy of other potential opportunities for communicating public issues to the project committee such as stakeholder workshops, public meetings and public presentations to the project committee would be carefully weighed and considered.

It has been determined that for most project reviews, the normal public consultation forums provided for by the EAO and proponent throughout the process are adequate for informing the project committee about public issues. Accordingly, the establishment of a PAC is generally not required.

### 4.5.2 PARTICIPANT ASSISTANCE

Financial or technical assistance may be made available to individuals and public interest groups to facilitate their participation in the EA process.

The EAO may provide some participant assistance on a project-specific basis to particular groups where such funding is related to participation in a PAC or technical workshop with public representation. Any participant assistance provided by the EAO is provided pursuant to the current cross-government participant assistance policy (see attachment B to Part D of the Guide), and is normally limited to travel and per diem expenses for participating in meetings.

The EAO provides assistance to First Nations to assist them in participating in project committee meetings and review procedures.

## 4.6 THE MINISTERS

An EA decision at the end of the first or second stage of the EA review is made jointly by the Minister and a second Minister designated by Cabinet as the Responsible Minister. The Responsible Minister normally has key program or permitting responsibilities for the relevant project sector (see Table 2 for a list of Responsible Ministers). In making their decision, Ministers must consider the application and any recommendations of the project committee.

## 4.7 ENVIRONMENTAL ASSESSMENT BOARD

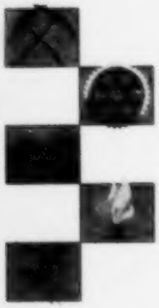
Projects referred to a stage 3 public hearing by Ministers go to the EA Board. At the conclusion of the hearing, the EA Board makes recommendations to Cabinet.

## 4.8 CABINET

Cabinet makes the decision on projects that proceed through all three stages of the EA process.

**Table 2: Responsible Ministers under the EA Act**

| Category of Reviewable Projects | Responsible Minister |
|---|---|
| **INDUSTRIAL PROJECTS** | Minister of Employment and Investment |
| **WATER MANAGEMENT PROJECTS**<br>Fisheries conservation and enhancement | Minister of Agriculture, Fisheries and Food |
| **WATER MANAGEMENT PROJECTS**<br>Non-fisheries conservation and enhancement | Minister of Municipal Affairs |
| **MINE PROJECTS** | Minister of Energy and Mines |
| **ENERGY PROJECTS**<br>Electric transmission lines, associated substations and power plants | Minister of Employment and Investment |
| **ENERGY PROJECTS**<br>All other energy projects | Minister of Energy and Mines |
| **FOOD PROCESSING PROJECTS** | Minister of Agriculture, Fisheries and Food |
| **TRANSPORTATION PROJECTS (Highways)** | Minister of Transportation and Highways |
| **TRANSPORTATION PROJECTS (Railways)**<br>Railways proposed by the British Columbia Railway Corporation | Minister of Transportation and Highways |
| **TRANSPORTATION PROJECTS (Railways)**<br>All other railways | Minister of Employment and Investment |
| **TRANSPORTATION PROJECTS (Ports, Airports and Ferry Terminals)** | Minister of Employment and Investment |
| **TOURISM PROJECTS**<br>Destination ski resorts | Minister of Employment and Investment |
| **TOURISM PROJECTS**<br>All other destination resorts | Minister of Small Business, Tourism and Culture |
| **FISH PROCESSING PLANT PROJECTS** | Minister of Agriculture, Fisheries and Food |



# PART B — DETAILS OF BC'S ENVIRONMENTAL ASSESSMENT PROCESS

This part of the Guide provides detailed information on each stage of the EA process. For additional information on:

- First Nations issues and consultation — see Part D;
- guidance to proponents on preparing an application for a project approval certificate — see Appendix 4;
- guidance to proponents on public consultation — see Appendix 5; and
- guidance to the public on participating in the EA process — see Appendix 6.

## 5.0 PRE-APPLICATION

Proponents are encouraged to contact the EAO very early with a project concept and before they have commenced detailed project planning to determine if their project proposal would be subject to the EA process. If a project is found to be reviewable under the Act, the proponent will be responsible for preparing and submitting an application for a project approval certificate (the application).

Although the pre-application period is not a legislated part of the EA review process, proponents are encouraged to continue meeting with the EAO, to meet with agencies and First Nations, and to commence initial public consultation. Early agency and First Nations discussions and consultation with the public can: provide the proponent with key information on issues to be addressed in the formal application; help the proponent to understand the EA process requirements, the associated statutory permit review requirements, and relevant land use issues; and assist in identifying key contacts.

During pre-application, proponents normally gather information from government and other sources on environmental, economic, social, cultural, heritage and health conditions in the vicinity of the project and confirm/augment this information through consultations. At this time, proponents also begin consultation and the collection and analyzing of available information on baseline conditions and potential project impacts. The EAO can assist in identifying appropriate information sources and contacts, and can assist with finalizing consultation plans.

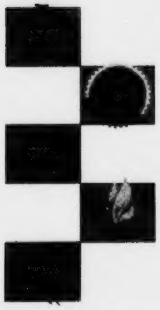
## 5.1 APPLICATION INFORMATION REQUIREMENTS

The Act (section 7) defines the general information requirements for applications; the Application Guidelines (see Appendix 4) provide guidance on possible content and useful references for pre-application consultations.

**The Application Guidelines provide general reference information only** — EA information and assessment requirements will vary from project to project and each application and associated study requirements will be unique. Proponents are responsible for meeting with the EAO and all relevant agencies during the pre-application period for project-specific information requirements and for direction on the appropriate methods for collecting data and assessing the project's potential effects.

Some general questions for proponents to consider during pre-application are noted below. These questions are not intended to be exhaustive.

- What previous studies and inventory surveys of environmental, economic, social, cultural, heritage and health characteristics and conditions have been undertaken in the vicinity of the project?
- Is the available information sufficient and reliable enough to determine current (baseline) characteristics and conditions?
- What are the information gaps and priorities for information collection as related to the project and the determination of current characteristics and conditions?
- What are the key issues of concern to government agencies, local government, First Nations, local residents, and the general public, particularly those directly affected by the proposed project?
- Does the preliminary project design incorporate the current technology approaches, including acceptable pollution prevention and waste minimization measures?
- Has the optimum site (or route) been selected, given relevant technical engineering, environmental, economic, social, cultural, heritage, health and cost factors?



- How will the environmental, economic, social, cultural, heritage and health characteristics and conditions be directly or indirectly affected by the project, and what aspects of the project primarily influence the potential for effects?
- What is the significance of the anticipated changes in these characteristics and conditions?
- What strategies are proposed/available to address the key issues of concern and to mitigate adverse impacts, or offset significant residual impacts?
- What strategies are proposed/available to monitor changes and to evaluate the effectiveness of mitigation measures as the project proceeds?

During pre-application, proponents may decide to start field baseline monitoring activities to fill significant information gaps. To focus efforts and reduce the risk of misdirected studies, proponents should obtain direction from agencies on appropriate study requirements. For projects which are referred to the project report stage, the exact final form of the study and reporting requirements will not be known until the project report specifications are finalized (see section 8 of this Guide).

## 5.2 CONSULTATION PLANS

Proponents are encouraged to discuss their project concept and consultation plans with key members of the public and First Nations early in the pre-application period to obtain their input. Proponents should keep a record of pre-application consultations and include these, along with plans for further consultation, in the application. A separate document recording the names and addresses of those consulted should accompany the application to be used by the EAO as a preliminary listing of addresses for public notification purposes.

## 6.0 THE APPLICATION

The application for a project approval certificate is the proponent's key submission for EA approval. The appropriate investment of effort and cost in preparing the application will depend upon the nature and scale of a proposed project.

The application should focus on presenting available information about the project and project setting, and identifying potential effects, as well as proposed prevention, mitigation and compensation measures. As detailed in the Application Guidelines and further to project-specific direction from the EAO and agencies, the application should provide:

- a concise overview of the proposed project in accordance with section 7(2) of the Act; and
- all relevant information about the impacts and benefits of the proposed project.

**Community Values and Public Opinion Information** — in addition to the socio-economic information requirements set out in the Application Guidelines, the application may also include information on:

- the potential project impact on community values in the immediate vicinity of the project; and
- the nature of public support for the project.

This information may assist the project committee in formulating recommendations and may be provided as information for Ministers.

Information on community values may be based on the perceived socio-economic or psychological effects of the proposed project (e.g., concerns about lifestyle change, quality of life, safety, security, and/or stability). Such information may well escape the more structured research requirements for socio-economic effects assessment as proposed in the Application Guidelines. Information on community values may be generated through a combination of the proponent's socio-economic research and public consultation.

## 6.1 SUBMITTING THE APPLICATION

Once an application is submitted officially to the EAO, the Act's procedural requirements for reviewing and deciding on the application take effect. It is recommended that proponents submit a draft of the application to the EAO and agencies for preliminary comment.

When satisfied that an application is complete, the proponent submits it to the Executive Director, who then screens it to determine whether it meets the information requirements of section 7(2) of the Act. If the application is deficient, the proponent is notified of the requirement to remedy the deficiencies before re-submitting the application for another screening.

The application screening is not an in-depth technical assessment of the application; that is done during the formal application assessment. Acceptance of the application for review does not signify any form of project approval or that the EA process has commenced, it simply means that the basic content requirements for the application have been met.

The proponent is responsible for providing and distributing a sufficient number of copies of the application once it has been accepted for EA review. To facilitate a timely review, the proponent may be asked to forward copies directly to specific interested parties and agencies, and to provide a record of this distribution.

The EAO requires applications to be prepared in an electronic format that is compatible with the EAO website (see appendix 7 for Project Registry web publication details as of January 2001). Questions about the most current electronic format requirements should be directed to Project Registry staff at (250) 356-7441.

## 6.2 REQUEST FOR CONCURRENT PERMIT REVIEW

At any time after the acceptance of an application for review, but no later than the date of submission of a project report (stage 2), the proponent may request that concurrent consideration be given to applications for approvals under other enactments (see section 13 of this Guide for further details).

## 6.3 AMENDING THE APPLICATION

A proponent may wish to make changes to the project design after an application has been submitted and a project assessment is underway. Depending upon the nature of the proposed changes, the EA process may need to be adjusted to allow for proper consideration of the change.

### 6.3.1 ROUTINE CHANGES

Routine changes to an application are minor in nature and normally arise as a result of feedback provided to the proponent during the EA review. Such changes are often intended to improve project design and reduce adverse impacts. It is not necessary to amend the application for routine changes. The proponent merely provides documentation on the proposed project changes to the EAO for filing on the Project Registry.

**FOR EXAMPLE...**

In response to issues raised about air emissions, a proponent for a pipeline facility changed from a gas turbine to an electric turbine. This change to the project was considered a routine change to the application.

### 6.3.2 MATERIAL CHANGES

Changes that significantly alter a proposed project or its location may be material changes that warrant adjustment of the review process to allow for adequate agency and public review. If the proponent wishes to make a material change to the project or to the manner of project implementation, a written request must be submitted to the Executive Director with particulars of the proposed changes. This may occur at any time prior to issuance of a project approval certificate.

The Executive Director discusses the proposed change with the project committee, and either accepts or rejects the amendment to the application. Application amendments are accepted only where the proposed project change is adequately described, and there is adequate opportunity during the EA process to consider the changes. The Executive Director may impose additional public notice requirements or may extend the public comment period to ensure adequate opportunity for review of the intended changes.

**FOR EXAMPLE...**

A proponent proposed to add an additional compressor station to a pipeline project. This change to the project, which would increase air emissions, was considered a material change resulting in an amendment to the application. Adequate time was provided for the public to comment on the project change.

# 7.0 STAGE 1: THE APPLICATION REVIEW

**Time Limits:**

**Average:** 3.5 to 5.5 months

- **Assessment of proponent's public consultation program:** within 45 days of receipt of copies of accepted application
- **Public comment period on the application:** 30 to 75 days
- **Project committee recommendations on the application:** within 40 days of the end of the public comment period
- **Ministerial decision:** within 30 days of the project committee recommendations

**Recommendations and Decision Points:**

**Project committee** considers public and agency comments and recommends that:

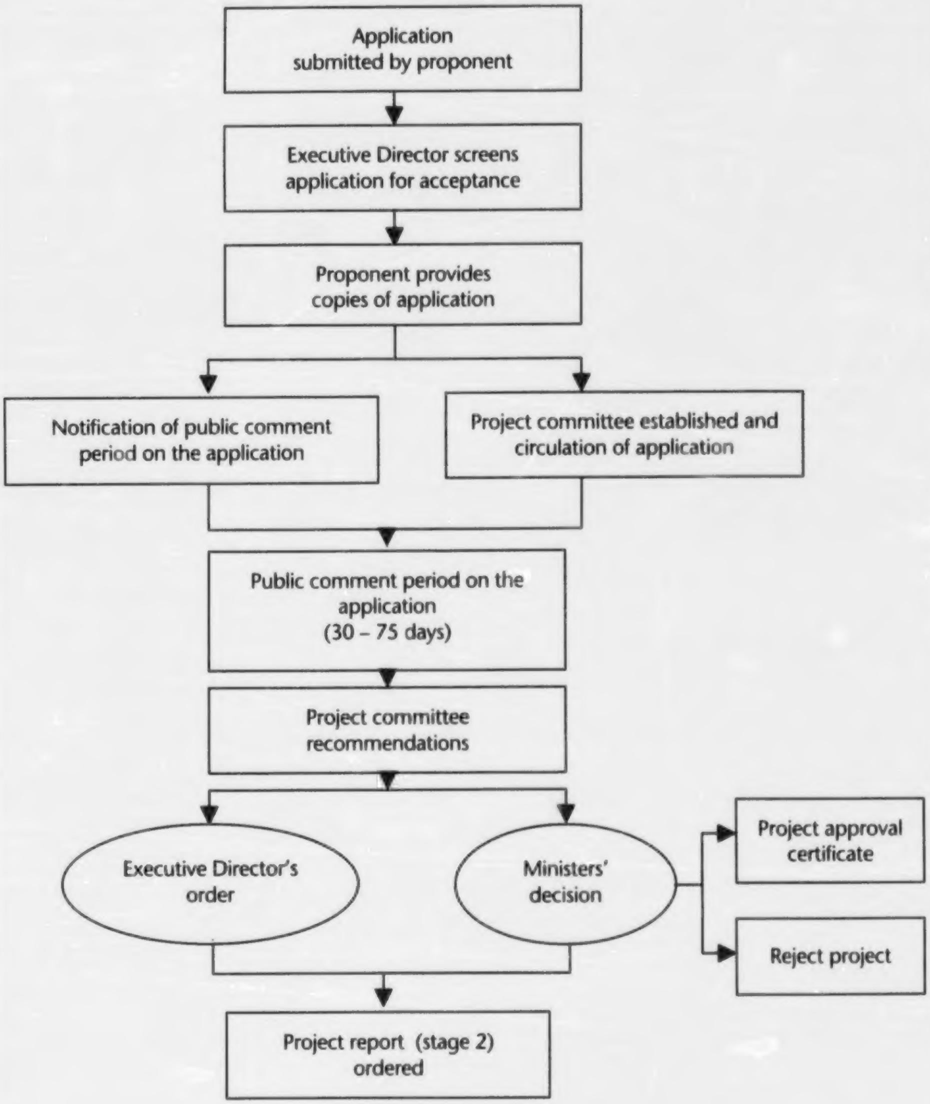
- the project should undergo further review (stage 2);
- a project approval certificate should be issued (may recommend terms and conditions); or
- a project approval certificate should be denied.

**Executive Director** either orders a project report (stage 2) or refers the application, with the project committee's recommendations report, to Ministers.

**Ministers** consider the project committee recommendations and either approve or reject the application, or order a project report.

The legislated time period for the application review starts when copies of the application, which has been accepted following screening, are received by the EAO. The steps in the application review are outlined in Figure 2 (next page), and are described in this section.

**Figure 2: Steps in the Application Review (Stage 1)**


Application submitted by proponent
Executive Director screens application for acceptance
Proponent provides copies of application
Notification of public comment period on the application
Project committee established and circulation of application
Public comment period on the application (30 – 75 days)
Project committee recommendations
Executive Director's order
Ministers' decision
Project approval certificate
Reject project
Project report (stage 2) ordered

## 7.1 NOTIFICATION OF THE APPLICATION REVIEW

The proponent and Executive Director share responsibility for notifying the public of the application review and inviting comments to be submitted during the public comment period. The time limits for the notification and comment periods are outlined in section 16 of this Guide.

The Executive Director also notifies, seeks comments, and invites participation on the project committee from:

- municipalities and regional districts in the vicinity of the project or within which the project is located;
- provincial government agencies;
- federal government agencies;
- First Nations whose traditional territory includes the site of the project or is in the vicinity of the project; and
- any of BC's neighbouring jurisdictions in the vicinity of the project.

## 7.2 COMMENTS ON THE APPLICATION AND PROPONENT RESPONSE

Public, First Nations and agency comment is invited on the application to ensure that all issues are identified and the key issues are addressed as part of the EA process. Government agencies and First Nations normally review the application and provide comments within the same time period as that established for receiving public comments. In addition to providing comment on the application, agencies also endeavour to identify issues and related information and consultation requirements that will likely arise during necessary statutory permit approval reviews.

Public comments and final First Nations and government comments are filed on the Project Registry and provided to the proponent. Proponents are invited to respond to public comments that are received. Although there is no prescribed timeline for the proponent's response, it should be forwarded to the EAO as soon as possible to provide sufficient time for the project committee to consider the response and still complete its report and recommendations within the review timeframe.

In reaching conclusions at the end of the application review stage, the project committee is required to consider the comments received from the public, First Nations and agencies and proponent response (if any). Issues identified during a review may be reflected in issue identification documents maintained by the EAO. These documents are filed, along with project committee minutes, on the Project Registry.

**FOR EXAMPLE...**
In one application, the proponent was responsive to the air quality concerns raised during the public comment period on the application and revised its proposal accordingly. Moving to an electric rather than a gas powered compressor contributed to the completion of the review in one stage and increased public support for the project.

**FOR EXAMPLE...**
One proponent was responsive to the issues raised by provincial and federal agencies over the technique to be used for crossing a major river. The proponent's willingness to consider an alternate technique that would have less potential impact on fisheries was a contributing factor in the one stage approval.

## 7.3 ASSESSMENT OF THE ADEQUACY OF CONSULTATION

The proponent is encouraged to consult with the public and with First Nations prior to submitting the application and is required to consult early in the review of the application to ensure that all public and First Nations issues are identified. Because there is a close link between effective public consultation and clear information on community values, the proponent's public consultation plans should include some measures for gauging a project's impact on community values in the immediate vicinity of the project.

Proponent consultation programs should be tailored to the characteristics of the project and the communities potentially affected, and the programs should provide opportunities for meaningful public input. The Guidelines for Proponents on Consulting the Public in the EA Process (see appendix 5) provide consultation suggestions for proponents. The Guidelines to the Public on How to Participate in the EA Process (see appendix 6) provide suggestions for the public on effective participation.

During the application review, the Executive Director, in consultation with the project committee, makes a written assessment of the adequacy of measures taken or proposed by the proponent relating to the distribution of information and consultation on the project. The Executive Director may require further measures to ensure adequate distribution of information and consultation. These additional requirements may include any combination of the following or other measures:

- further notification of the application for a project approval certificate;
- additional public consultation;
- consultation with one or more First Nations; and/or
- distribution of copies of the application to specified persons or organizations.

The Executive Director will specify a time period within which additional measures must be carried out, and may assign responsibility for carrying out these measures to the proponent or to the EAO. In certain cases, the EAO may undertake public consultation, either on its own or in conjunction with the proponent.

## 7.4 PROJECT COMMITTEE RECOMMENDATIONS ON THE APPLICATION

The project committee reviews the application, taking into account all comments received during the public comment period and the proponent's response (if any). The project committee then makes one of three recommendations in their report to the Executive Director:

- the project undergo further review (stage 2);
- a project approval certificate be issued; or
- a project approval certificate be denied.

## 7.5 OPTIONS FOR THE EXECUTIVE DIRECTOR

The Executive Director either orders that a project report be prepared, or refers the application and the project committee recommendations report to the Ministers for a decision.

The Executive Director may only refer the application to the Ministers for a decision where, in consultation with the project committee, the Executive Director:

- ascertains that any specified measures relating to public and First Nations notification and consultation have been carried out;
- considers that the application identifies and adequately describes the potential effects of the project; and

- examines and reports about whether, in the project committee's opinion, the application sets out practical means to prevent or reduce all significant adverse effects of the project to an acceptable level.

If the Executive Director considers that the above factors have not been met, the project will be referred directly to the project report review (stage 2).

Where a project is referred to Ministers for a decision, the recommendations of the project committee and the reasons for those recommendations must be filed on the Project Registry within 30 days of the Executive Director's referral.

## 7.6 MINISTERS' DECISION

Ministers consider the application and the recommendations of the project committee and make a decision to:

- issue a project approval certificate to the proponent, attaching any conditions considered necessary;
- refuse to issue a project approval certificate; or
- require a project report (stage 2).

Written reasons must accompany the Ministers' decision and these reasons are filed on the Project Registry.

## 8.0 MORE INFORMATION NEEDED: PREPARATION OF PROJECT REPORT SPECIFICATIONS

**Time Limits:**

**Average:** 1 to 2 months

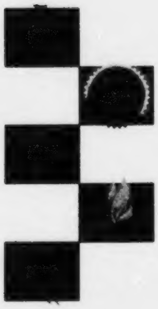
**Draft project report specifications:** available 20 days after order issued for project report

**Public comment period on the draft specifications:** 15 to 30 days

**Final specifications:** within 20 days of the public review

**Decision Points:**

**Executive Director** issues final project report specifications



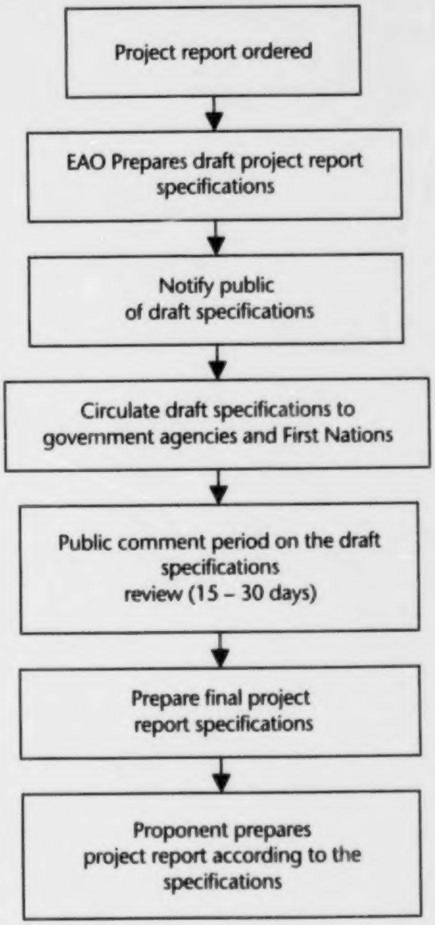
Where the Executive Director or the Minister orders that an application proceed to the project report stage, the project committee develops project report specifications (terms of reference). The legislated time period for the development of the specifications starts when an order is issued.

Project report specifications state the types of information, analyses, plans and other records that the project committee members deem necessary to resolve outstanding issues for a meaningful project assessment. Project report specifications are custom-tailored to the characteristics of each project. The proponent is responsible for finalizing the ultimate details of the study program, within the framework of the project report specifications.

Project reports need only deal with issues that have not been adequately addressed in the application review. The project committee identifies the additional information requirements, and these are incorporated into the project report specifications.

The steps for developing the project report specifications are outlined in Figure 3, and are described in this section.

**Figure 3: Steps in Preparing the Project Report Specifications**


Project report ordered
EAO Prepares draft project report specifications
Notify public of draft specifications
Circulate draft specifications to government agencies and First Nations
Public comment period on the draft specifications review (15 – 30 days)
Prepare final project report specifications
Proponent prepares project report according to the specifications

## 8.1 DRAFT PROJECT REPORT SPECIFICATIONS

The EAO, on the recommendation of the project committee, prepares draft project report specifications and makes them available to the proponent, the public, First Nations and government agencies for review and comment. This allows all those interested an opportunity to review and comment on the draft project report specifications before they are finalized. The draft specifications are placed on the Project Registry, satellite repositories, and EAO website.

## 8.2 NOTIFICATION OF THE PROJECT REPORT SPECIFICATIONS REVIEW

The EAO notifies the public of the availability of the draft project report specifications and invites comments on them during the public comment period. Advertisements are placed in one or more provincial newspaper(s) and in community newspaper(s) in the region(s) most likely to be impacted by the project.

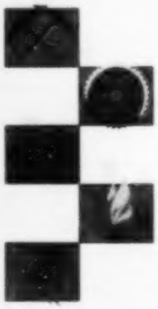
The EAO also notifies and invites comments on the draft specifications from the project committee members and other project reviewers. The time limits for the notification and comment periods are outlined in section 16 of this Guide.

## 8.3 REVIEW OF THE DRAFT PROJECT REPORT SPECIFICATIONS

Government agencies and First Nations normally provide comments on the draft project report specifications within the same time period as that established for receiving public comments.

Public comments and final First Nations and government comments are filed on the Project Registry and provided to the proponent. Since the Executive Director must complete the project report specifications review within 20 days of the conclusion of the draft specifications review period, the proponent should provide any response to the comments within this brief period.

The Executive Director, upon the recommendations of the project committee, finalizes the project report specifications and provides them to the proponent. The final project report specifications are placed on the Project Registry.



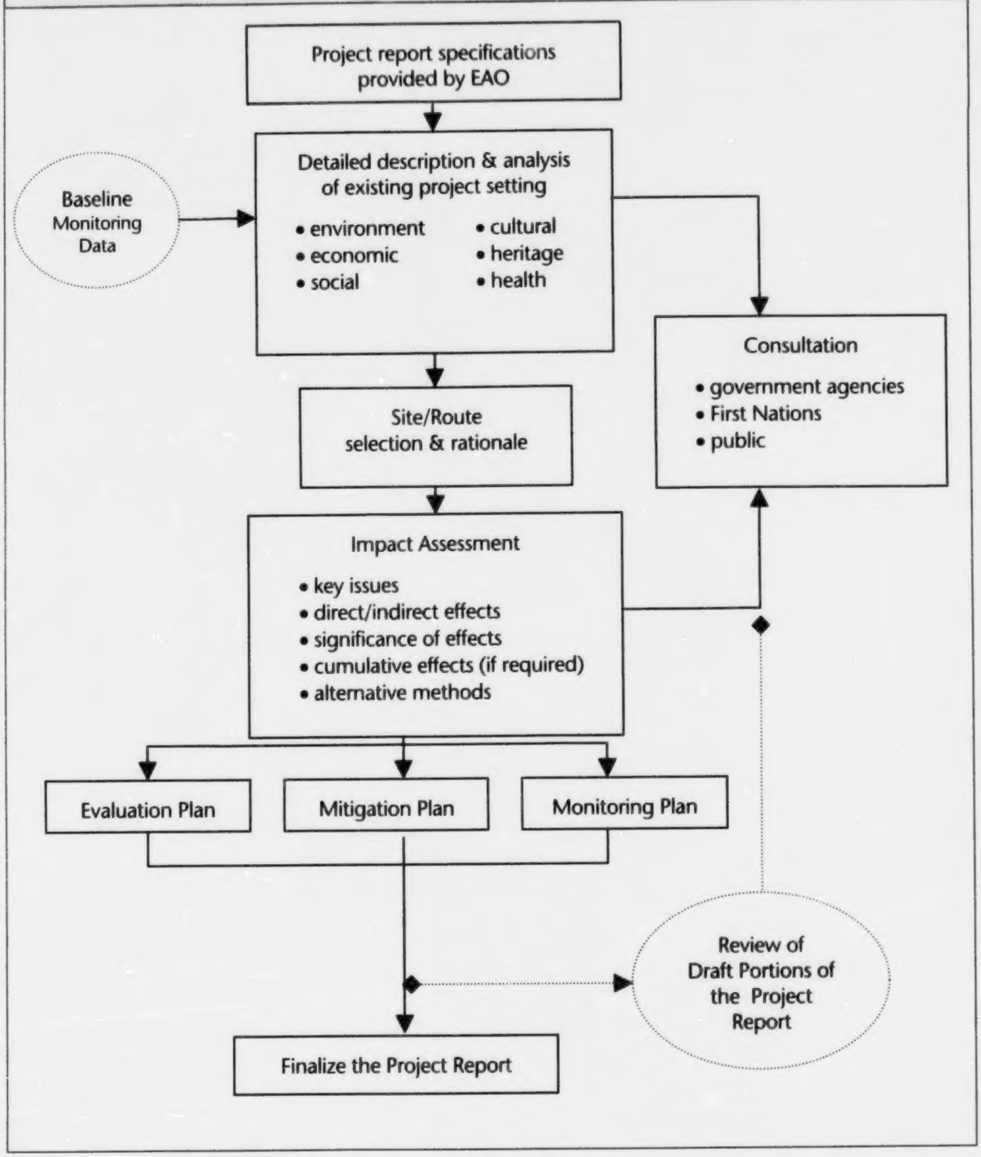
# 9.0 THE PROJECT REPORT

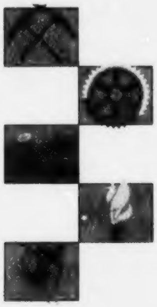
The proponent is responsible for conducting studies and analyses set out in the specifications; conducting the mandatory public and First Nations consultation requirements of the EA process; and preparing the project report. The proponent should meet with the EAO and agencies during the project report preparation stage for project-specific advice on the appropriate methods for collecting data and assessing the project's potential effects.

There is no time limit for the proponent to complete the project report. The time required will depend on the complexity of the project, the availability of information, and the proponent's schedule. Figure 4 outlines the steps typically followed in preparing a project report.

The appropriate level of effort in preparing the project report will depend on the scale and nature of the proposed project, and the information requirements set out in the project report specifications.

**Figure 4: Steps in the Preparation of a Project Report**


Project report specifications provided by EAO
Baseline Monitoring Data
Detailed description & analysis of existing project setting
• environment
• economic
• social
• cultural
• heritage
• health
Consultation
• government agencies
• First Nations
• public
Site/Route selection & rationale
Impact Assessment
• key issues
• direct/indirect effects
• significance of effects
• cumulative effects (if required)
• alternative methods
Evaluation Plan
Mitigation Plan
Monitoring Plan
Review of Draft Portions of the Project Report
Finalize the Project Report



## 9.1 SUBMITTING THE PROJECT REPORT

As with an application, proponents may wish to submit preliminary study results or draft sections of the project report to relevant agencies prior to submitting the final report. Any further direction given by agencies should be summarized in the project report.

When satisfied that a project report is complete, the proponent submits it to the Executive Director who then screens it to determine whether it meets the information requirements of the project report specifications. If the project report is deficient, the proponent is notified of the requirement to remedy the deficiencies before re-submitting the project report for another screening.

The project report screening is not an in-depth technical assessment of a project report; that is done during the formal project report assessment. Acceptance of the project report for review does not signify project approval, or that the project report review stage has commenced. It simply means that the basic content requirements have been met, as set out in the project report specifications.

The proponent may wish to submit the report in separate volumes (e.g., separate volumes for environmental, economic, social, health, and cultural/heritage sections) in order to facilitate distribution and review by project committee members. The project report should include a separate executive summary for wider circulation.

The proponent is responsible for providing and distributing a sufficient number of copies of the project report once it has been accepted for EA review. To facilitate a timely review, the proponent may be asked to forward copies directly to specific interested parties and agencies, and to provide a record of this distribution.

The EAO requires project reports to be submitted in an electronic format that is compatible with the website (see appendix 7 for publication details as of January 2001). Questions about the most current electronic format requirements should be directed to Project Registry staff at (250) 356-7441.

# 10.0 STAGE 2: THE PROJECT REPORT REVIEW

**Time Limits:**

**Average**: 20 months

- **Assessment of the proponent's public consultation program:** within 45 days of receipt of copies of accepted project report
- **Public comment period on the project report**: 40 to 60 days
- **Project committee recommendations:** within 70 days of the end of the public comment period
- **Ministerial Decision:** within 45 days of the project committee recommendations

**Recommendations and Decision Points:**

**Project committee** considers public and agency comment and recommends that:

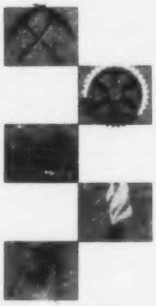
- a project approval certificate should be issued (may recommend terms and conditions);
- a project approval certificate should be denied; or
- the project should be referred to the EA Board for a public hearing.

**Executive Director** refers the project report, with the project committee's recommendation report, to Ministers.

**Ministers** consider the project committee recommendations and approve or reject the project report or order a public hearing (stage 3).

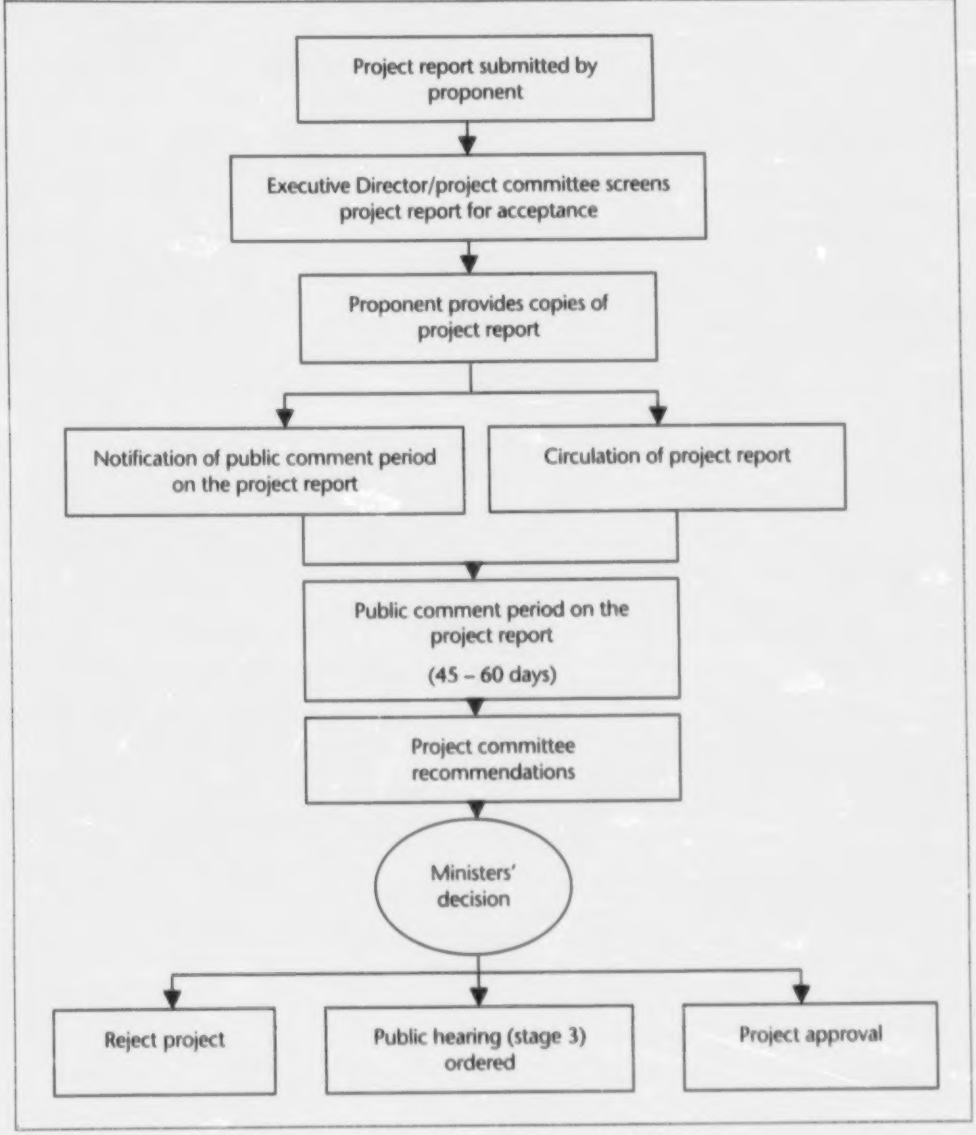
The legislated time period for the review starts when copies of the project report, which has been accepted following screening, are received by the EAO. The steps in the project report review are outlined in Figure 5 and described in this section.

The steps for reviewing the project report are essentially the same as those for reviewing the application (stage 1). See section 7 of this Guide for details on:



- notification of the project report review;
- commenting on the project report, and the proponent's opportunity to respond to comments;
- assessing the adequacy of public and First Nations consultation; and
- the project committee's review of the project report, and preparation of project recommendations.

**Figure 5: Steps in the Project Report Review (Stage 2)**


Project report submitted by proponent
Executive Director/project committee screens project report for acceptance
Proponent provides copies of project report
Notification of public comment period on the project report
Circulation of project report
Public comment period on the project report
(45 – 60 days)
Project committee recommendations
Ministers' decision
Reject project
Public hearing (stage 3) ordered
Project approval

The notable difference between the application and project report review stages is that at the end of the project report review stage, the Executive Director must refer the project report and the project committee's recommendations to the Ministers for decision. This is in contrast with the application stage, where the Executive Director may refer the application to a stage 2 project report without Ministerial review.

The referral of the project report to Ministers takes into account the application, the project report, and comments received. The project committee's recommendations and the reasons for them must be filed on the Project Registry within 30 days of the Executive Director's referral to the Minister.

Following their consideration, Ministers may:

- issue a project approval certificate to the proponent, attaching any conditions considered necessary;
- refuse to issue a project approval certificate; or
- direct the EA Board to hold a public hearing.

Written reasons must accompany the Ministers' decision and these reasons are filed on the Project Registry.

## 11.0 STAGE 3: ENVIRONMENTAL ASSESSMENT BOARD PUBLIC HEARING

**Time Limits:**

- **Agency and public review of terms of reference**: 30 to 60 days
- **Hearing**: no set time limit, but cannot begin until 15 days after placing the terms of reference on the Project Registry
- **Report of EA Board**: within 30 days of the end of the hearing
- **Cabinet decision**: within 45 days of the EA Board report

**Recommendations and Decision Points:**

**Board** recommends:

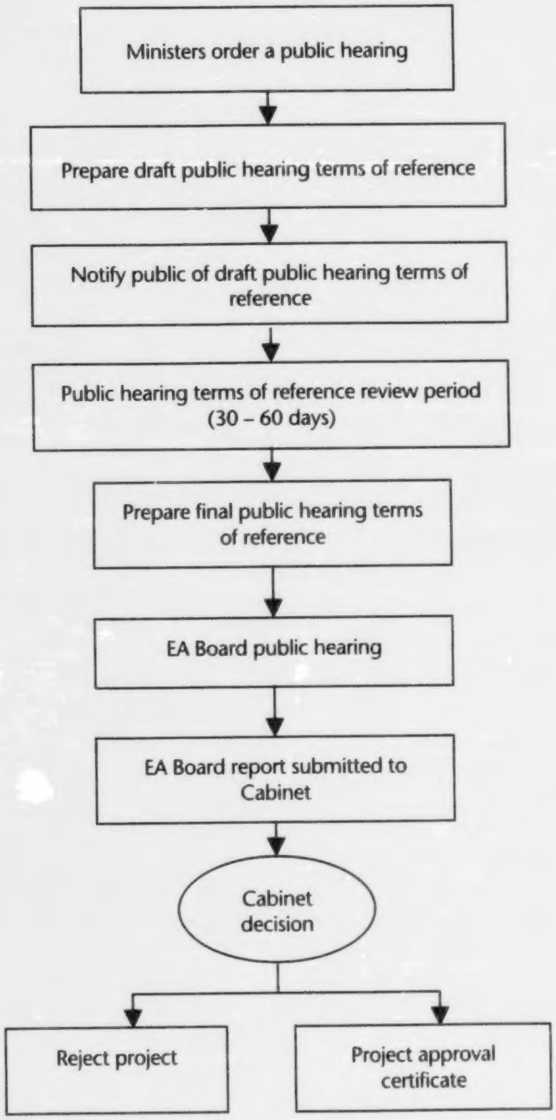
- project approval certificate be issued (may recommend terms and conditions);
- project approval certificate be denied.

**Cabinet** may affirm or vary the Board's recommendation.

The Ministers may decide to direct the project to the EA Board for a public hearing on issues that remain of concern after completion of the application and project report stages. The Ministers may also ask the Board to inquire into and to recommend whether or not regulatory approvals should be granted under one or more of the specified permits and licenses.

The legislated time period for the public hearing starts when the Ministers' decision is made following the project report review. The steps in the public hearing process are outlined in Figure 6 and described in this section.

**Figure 6: Steps in the Public Hearing Process (stage 3)**


Ministers order a public hearing
Prepare draft public hearing terms of reference
Notify public of draft public hearing terms of reference
Public hearing terms of reference review period (30 – 60 days)
Prepare final public hearing terms of reference
EA Board public hearing
EA Board report submitted to Cabinet
Cabinet decision
Reject project
Project approval certificate

## 11.1 DRAFT PUBLIC HEARING TERMS OF REFERENCE

Draft terms of reference for a public hearing are prepared by the EAO in consultation with the project committee. The draft terms of reference are placed on the Project Registry and the public is invited to comment on them. After the completion of the specified public review period, the Minister, with the concurrence of the Responsible Minister, issues the final terms of reference for the public hearing.

## 11.2 PUBLIC HEARING PROCESS

The EA Board must hold a public hearing according to the terms of reference issued by the Minister. The EA Board will issue a notice of public hearing, to be placed on the Project Registry and advertised in newspapers.

The Act deals with various aspects of the general conduct of hearings. The EA Board may determine the procedures for the hearing, which may be formal or informal. To facilitate participation, evidence may be accepted whether or not it is admissible in a court of law. The Minister may order the proponent to pay hearing costs.

## 11.3 PUBLIC HEARING RESULTS

When the hearing is completed, the EA Board will issue a written report, which must be filed on the Project Registry and may include a recommendation to either issue or refuse to issue a project approval certificate. If issuance of a project approval certificate is recommended, the EA Board may make further recommendations as to whether or not approvals should be issued under other specified permits and licenses, and any conditions relating to those approvals. The EA Board report will include a summary of the evidence and submissions received during the public hearing.

## 11.4 CABINET DECISION

After receiving the hearing report from the EA Board, the provincial Cabinet must order that either:

- a project approval certificate be issued, subject to any conditions considered necessary; or
- a project approval certificate be refused.

If issuance of a project approval certificate is ordered, Cabinet may further order that other specified approvals be issued, together with any conditions relating to these approvals. Such an order may only be made if the Board was directed to review issuance of these approvals and to provide recommendations to the Cabinet. In such circumstances, the appropriate regulatory authority or authorities must issue the approvals within 30 days of the issuance of the project approval certificate. Cabinet orders are final and binding.

# 12.0 COORDINATED ENVIRONMENTAL ASSESSMENT AND PERMIT REVIEWS

Reviewable projects must obtain both EA approval as well as any necessary statutory approvals, permits and licenses from individual regulatory agencies. To prevent the possibility of duplication, inconsistency and overlap between the EA process and other various approval processes, the EAO and provincial agencies coordinate EA and statutory permit reviews.

**During the EA Review** — the EAO initiates integration and coordination of the information and consultation requirements of the EA process and other statutory permit approval processes. The EAO ensures that information and consultation requirements for necessary permit approvals are identified during the EA review to the greatest extent possible. Key information on required permits is prepared during the EA review to assist with the permit review (see appendix 8).

**Following EA Approval** — the EAO ensures that post-certification mechanisms are established to assist the proponent in making the shift from the EA review to permit reviews. These mechanisms are intended to ensure thorough, timely and integrated permit reviews and include:

- the designation of a single government contact who is responsible for permit review coordination;
- an immediate post-certification meeting with key project committee members and permitting authorities;
- establishment of a permit review coordination mechanism; and
- where appropriate, coordination requirements for compliance monitoring and reporting.

The single government contact and the EAO project committee chair work together to confirm responsibility in relation to project compliance monitoring and reporting.

**What are Coordinated and Optional Concurrent EA and Permit Reviews?**

The EAO ensures that information and consultation requirements for other statutory permit processes are **coordinated** with the EA review, to facilitate a smooth transition between the processes.

Proponents also have the option to request that the EA review be conducted **concurrently** with the review of applications for other statutory approvals. Optional concurrent review can result in more timely permit issuance, where the proponent's plans are sufficiently well developed.

## 13.0 CONCURRENT ENVIRONMENTAL ASSESSMENT AND PERMIT REVIEWS

In order to shorten the time for review of necessary approvals prior to project construction, proponents can request that individual regulatory agencies review applications for statutory permit approvals at the same time as the EA review. The Act establishes a specific process for concurrent review of those statutory permits and licenses outlined in Table 3. (Note: review of approvals not included in Table 3 may also be coordinated with an EA review).

Although concurrent permit reviews can lead to expeditious permit decisions, applications for permits and licenses may need to incorporate detailed, and possibly final, engineering design information. Depending on the project, justification of these expenditures may be difficult without first obtaining the project approval-in-principle as represented by EA certification. Before requesting concurrent permit review from the EAO, proponents should contact the relevant permitting agencies to clarify their information requirements and the level of detail required.

A request for concurrent permit review as provided under the Act can be made any time after the acceptance of an application for review, but no later than the date of submission of the project report. To initiate concurrent permit reviews, the proponent contacts the Executive Director and:

- identifies the statutory approvals being sought;
- attaches or encloses copies of the permit applications and supporting material, confirming that applications have been filed under the specified enactments; and
- requests that those applications be considered concurrently with the EA review of the application for a project approval certificate.

Where concurrent review occurs, the project committee coordinates the permit reviews in conjunction with the EA review. The appropriate regulatory agencies will evaluate the permit and license applications following their normal procedures.

Requests for concurrent review, and the supporting documentation, are placed on the Project Registry. The public may be notified of applications for concurrent regulatory review by the proponent through notices advertised in newspapers, or other notification measures which are a routine part of the regulatory procedures for processing specific permit applications.

Within 70 days after the conclusion of the project report review period (or earlier if the concurrent review is completed), the regulatory authorities must inform the project committee and the proponent that, following certification, the specific permits requested:

- will be issued within 30 days of certification;
- will be refused; or
- the decision will be postponed with written reasons for the postponement. An indication of when a decision will be forthcoming will be provided.

**Table 3: Permits and Licenses that may be Reviewed Concurrently with the EA Review**

| Act | Relevant Section | Permit/License |
|---|---|---|
| *Fisheries Act* | Sec. 13 (4.1) | License to carry on the business of aquaculture |
| *Forest Act* | Sec. 45 | Free Use Permit |
| | Sec. 47 | License to Cut to a person who does not otherwise have the right to harvest Crown timber |
| | Sec. 91 | Road Permit |
| Provincial Forest Regulation, BC Regulation 562/78 (*Forest Act*) | Sec. 3 | Special Use Permit |
| *Heritage Conservation Act* | Sec. 5 | Permit to alter an archaeological site |
| *Highway Act* | Sec. 57 | Permit for access to a Controlled Access Highway |
| *Highway (Industrial) Act* | Sec. 5 | Certificate granting leave for an industrial road to cross or join, or be crossed or joined, by a public road or highway |
| *Mines Act* | Sec. 10 or 11 | Permit for work in or about a mine |
| *Mining Right of Way Act* | Sec. 3 | Consent or permit to take and use private land, or to use Crown land, for a right of way |
| | Sec. 4 (1)(b) | Written approval described in that provision relating to the taking and using of private land, or the using of Crown land, for a right of way |

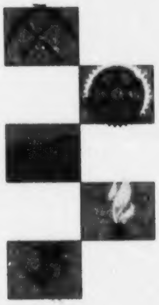


**Table 3, Continued**

| Act | Relevant Section | Permit/License |
|---|---|---|
| *Park Act* | Sec. 24 | Park Use Permit |
| Safe Drinking Water Regulation, B.C. Regulation 230/92 (*Health Act*) | Sec. 2 | Permit for construction, alteration or extension of a water works system |
| Sewage Disposal Regulation, B.C. Regulation 411/85 (*Health Act*) | Sec. 3<br>Sec. 4 | Authorization for the construction, installation, alteration or repair of a sewage disposal system<br>Authorization to use, operate or cover a sewage disposal system |
| *Utilities Commission Act* | Sec. 24 or 25 | Energy Removal Certificate |
| *Waste Management Act* | Sec. 8 | Permit to introduce waste into the environment, store special waste, or recycle special waste |
| | Sec. 9 | Approval to introduce waste into the environment, store special waste, or treat or recycle special waste |
| *Water Act* | Sec. 7, 12, or 14<br>Sec. 8, 9 | Water licenses<br>Approval for the short-term use of water, or approval for changes in and about a stream |

## 14.0 CERTIFICATION

A project approval certificate (certificate) is issued when an EA process results in a decision either by the two Ministers (stage 1 or 2) or by Cabinet (stage 3), to approve a project. The certificate specifies a deadline of between three and five years by which time the project must be substantially started, or the certificate will lapse. Certificate extensions may be granted upon application to the Minister.

If a project is certified, the proponent, if it has not already done so, may apply for the individual permits and approvals necessary to construct and operate the project.

Project approval will be subject to specific measures or steps outlined in the conditions of the certificate. Proponents must abide by the certificate conditions in order to maintain the approval. Conditions may relate to the construction, operation, modification, dismantling or abandonment of the facilities constructed. Minor amendments can be made to certificates, where agreed upon by the Minister and the proponent. In addition to administrative matters, certificate conditions may address potential effects of the project that are not addressed through statutory permit approval.

**FOR EXAMPLE...**
Project approval certificates may be conditional upon performance of some action by the proponent, such as reporting to a community on hiring practices. A certificate for a remote mining project contained a condition that the proponent periodically report to government on its workforce hiring, thereby encouraging accountability to the local community.

If an EA review results in a decision not to issue a certificate, the project cannot proceed in its proposed form and would have to be revised before any new application would be considered. There is no appeal procedure for a decision by Ministers or Cabinet.

## 15.0 PROJECT IMPLEMENTATION

The EA review is concluded once a decision has been made regarding a project approval certificate. The Act contains several mechanisms for follow-through where an approval has been granted.

## 15.1 MONITORING PROJECT EFFECTS

EA involves predicting the potential effects of a proposed project, and defining ways to prevent, minimize or mitigate the negative effects. Based on past experience, it is possible to estimate the nature and magnitude of many environmental or social effects, and identify successful ways to deal with them. However, impact prediction is not an exact science. It is important, therefore, to monitor conditions at and around a project, after it is built, to measure actual performance. Monitoring provides information that is needed to determine if a project's impact management methods are working.

BC's EA process provides for post-certification project monitoring and reporting. Certificates may contain requirements for monitoring the effects of the project, and reporting on the monitoring results.

Monitoring involves the systematic observation and measurement of the environmental, economic, social, cultural, heritage and health characteristics and conditions, which may be affected by the project. Monitoring plans may specify the key parameters that need to be monitored, the sampling protocol and analytical procedures. Impact management procedures to respond to issues and unforeseen impacts during the construction or operational phases may also form part of the monitoring plan.

Appropriate arrangements for liaison between the proponent, contractors, government, First Nations and the public may be a necessary part of monitoring programs.

## 15.2 EVALUATION AND REPORTING

Evaluation generally involves assessing the project's compliance with the certification terms and conditions. It may also include evaluating the actual effectiveness of approved mitigation measures through a monitoring program. This may involve field inspection and appraisal, and adjusting the mitigation approach to more effectively manage impacts.

The project approval certificate may contain requirements for:

- comparing the anticipated effects of the project, as set out in the project report, with the actual effects;
- evaluating the adequacy of the measures taken to prevent or mitigate any adverse effects; and
- reporting the results of the above activities.

## 15.3 COMPLIANCE AND ENFORCEMENT

Regulatory agencies have several options available to ensure project compliance.

In addition to agency requirements, the Act prohibits:

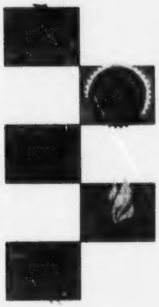
- developing a reviewable project without project approvals;
- providing information that is false or misleading; and
- developing projects contrary to the terms of project approval.

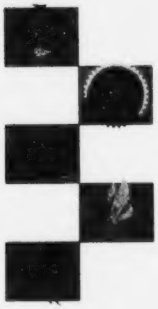
Sanctions and penalties for these prohibited activities include fines of up to $200,000 and imprisonment for up to 12 months.

**Inspection and Enforcement** — the Act authorizes enforcement staff within existing regulatory agencies to inspect any works or activities on the site of a reviewable project. The Minister may halt construction, operation, modification, dismantling or abandonment activities until the proponent obtains a project approval certificate, or complies with conditions of a project approval certificate.

**Order to Comply with the Act** — in the event of non-compliance with an order made under the Act, the Act enables the Minister to apply to the Supreme Court for an order to comply. The Minister may also propose a compliance agreement whereby the certificate holder undertakes to comply with certificate requirements.

**Suspension of Project Approval** — the Minister has the authority to suspend or alter a certificate for specific reasons, subject to notice requirements and the opportunity for the certificate holder to be heard.





# PART C — IMPLEMENTING THE ENVIRONMENTAL ASSESSMENT PROCESS

## 16.0 TIME LIMITS

To increase process certainty, BC's EA process includes time limits for a number of review activities. The time limits do not apply to proponents for preparing the application or the project report. The time required by the proponent for preparing an application or a project report will depend upon the project characteristics and issues, availability of baseline data and the proponent's own schedule.

The Prescribed Time Limits Regulation (see appendix 3) specifies the amount of time available (in calendar days) for:

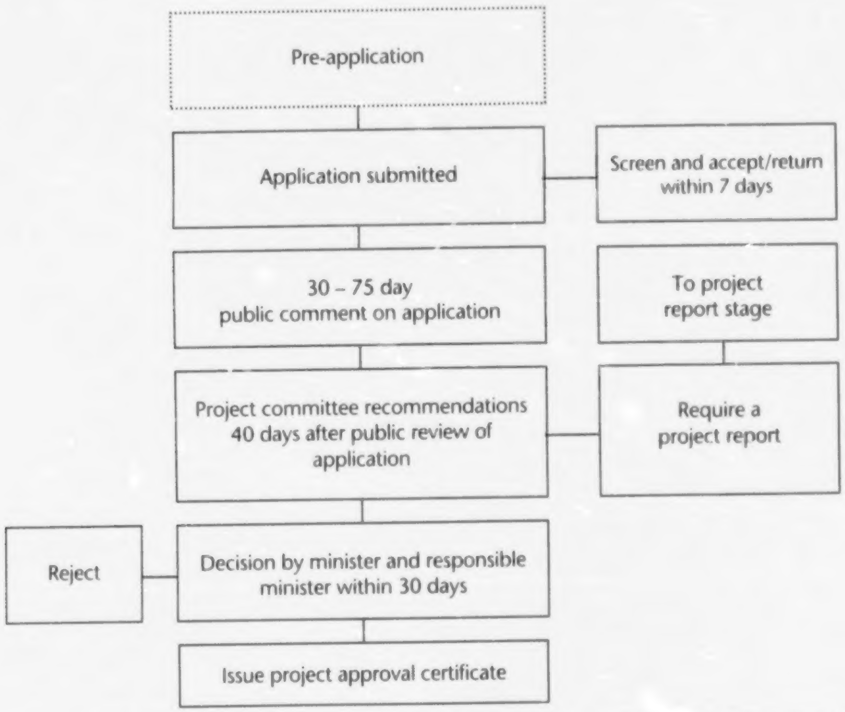
- administrative actions;
- public review and comment;
- government agencies' and First Nations review and comment; and
- decisions by Ministers and Cabinet.

The Prescribed Time Limits Regulation establishes a maximum and/or minimum number of days for each review step. The EAO determines a specific deadline from within these ranges, based on the needs of each project. Ministerial approval is required for any extension of the time limit.

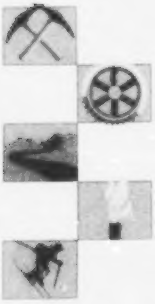
## 16.1 TIME LIMITS FOR REVIEWING THE APPLICATION (STAGE 1)

Figure 7 summarizes the key steps in the application review stage. The average time required to complete an application review is between 3.5 to 5.5 months.

**Figure 7: Time Limits for Reviewing the Application (Stage 1)**


Pre-application
Application submitted
Screen and accept/return within 7 days
30 – 75 day public comment on application
To project report stage
Project committee recommendations 40 days after public review of application
Require a project report
Reject
Decision by minister and responsible minister within 30 days
Issue project approval certificate

The project committee must be established within 20 days of the Executive Director's acceptance of the application for review. Within seven days after receiving copies of the application, the Executive Director files the project application on the Project Registry and notifies the public, inviting comments on the application. The Executive Director must also circulate the notice to, and invite comments from, government agencies, local government and First Nations.



The review cannot start until seven days after the public notice has been filed on the Project Registry. An application review public comment period of between 30 and 75 days is specified in the notice.

The length of the public comment period is established by the EAO, taking into consideration the complexity of the project and the time required to ensure that information about the project is provided to the public. To ensure consideration by the project committee, public comments are to be received within the specified comment period. Normally, government agencies, local government and First Nations involved in the review will prepare their review comments during the public comment period.

Within 45 days after accepting an application for review, the Executive Director, in consultation with the project committee, makes a written assessment of the adequacy of measures taken or proposed for distributing information about, and consultation on, the project. The assessment is provided to the proponent and filed on the Project Registry.

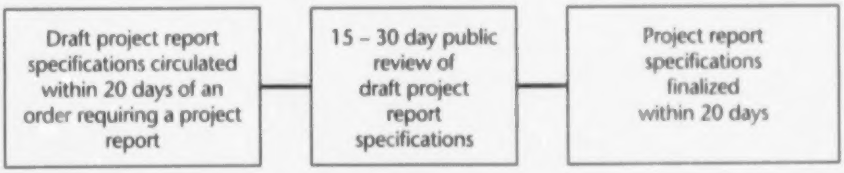
Within seven days after the conclusion of the application review period, all comments are forwarded to the proponent and placed on the Project Registry. Within 40 days after the conclusion of the application review period, the project committee completes the review of the application and the comments received.

The Executive Director then either requests a project report or refers the application to the Ministers for a decision (reject, certify, or require further review). The Executive Director's or the Ministers' decision must be made within 30 days of the project committee's recommendations report being filed on the Project Registry. Written reasons must accompany the Ministers' decision.

## 16.2 TIME LIMITS FOR PREPARING THE PROJECT REPORT SPECIFICATIONS

Figure 8 summarizes the steps and timelines in the project report specification stage.

**Figure 8: Time Limits for Preparing the Project Report Specifications**

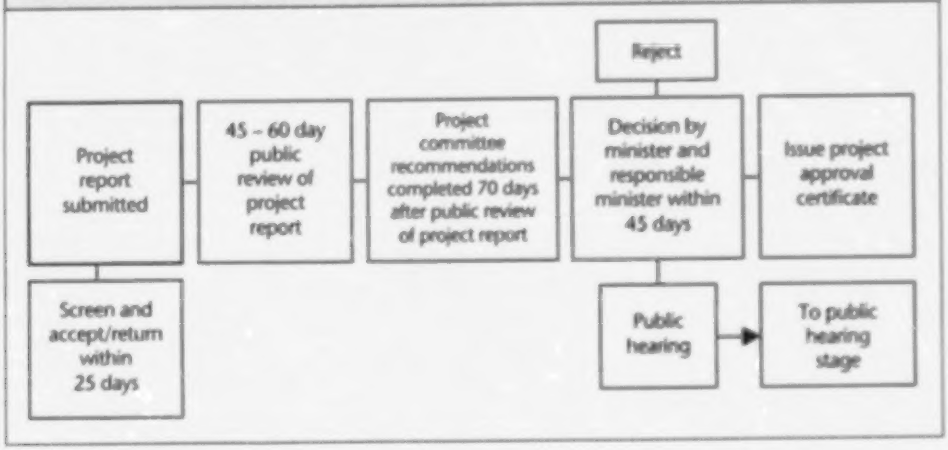

Draft project report specifications circulated within 20 days of an order requiring a project report
15 – 30 day public review of draft project report specifications
Project report specifications finalized within 20 days

Within 20 days of issuing an order for a project report, the Executive Director must prepare draft project report specifications. Notice of draft specifications must be made public within seven days of their issuance, and they are also placed on the Project Registry. The EAO establishes a timeline for commenting on the draft specifications from between 15 and 30 days, beginning at least seven days after public notice is given. All written comments are filed on the Project Registry within seven days of receipt by the EAO. The comments are provided to the proponent within seven days of the conclusion of the public comment period. The final specifications are issued within 20 days of completion of the review period.

## 16.3 TIME LIMITS FOR REVIEWING THE PROJECT REPORT (STAGE 2)

Figure 9 summarizes the steps and time limits in the project report review stage. The average time required to complete a project report review is 20 months.

**Figure 9: Time Limits for Reviewing the Project Report (Stage 2)**


Reject
Project report submitted
45 – 60 day public review of project report
Project committee recommendations completed 70 days after public review of project report
Decision by minister and responsible minister within 45 days
Issue project approval certificate
Screen and accept/return within 25 days
Public hearing
To public hearing stage

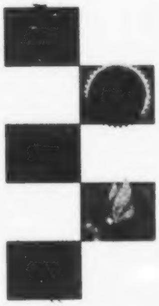
Within 25 days of receiving the project report, the Executive Director must notify the proponent that the report has been accepted, or that acceptance is being withheld, and provide the proponent of particulars of the deficiencies. Within seven days after receiving copies of the accepted project report, the Executive Director files the project report on the project registry and notifies the public inviting comments on the project report. The review cannot start until seven days after the public notice has been filed on the Project Registry.

A project report public comment period of between 45 and 60 days is specified in the notice. The Executive Director must circulate the project report to, and invite comments from, government agencies, local government and First Nations.

Within 45 days after accepting the project report for review, the Executive Director, in consultation with the project committee, makes a written assessment of the adequacy of measures taken or proposed for distributing information about, and consultation on, the project. The assessment is provided to the proponent and filed on the Project Registry.

Within seven days after the conclusion of the project report review period, all comments are forwarded to the proponent and placed on the Project Registry. Within 70 days after the conclusion of the application review period, the project committee completes the review of the project report and the comments received.

After the project committee review is complete, the Executive Director refers the project report and project committee recommendations to Ministers for a decision. The project committee recommendations report is filed on the Project Registry within 30 days of the referral of the project to Ministers for a decision. The Ministerial decision is made within 45 days of the referral from the Executive Director, and filed on the Project Registry along with reasons for the decision. Ministers either issue a certificate, refuse to issue a certificate, or direct the EA Board to hold a public hearing.



## 16.4 TIME LIMITS FOR THE PUBLIC HEARING (STAGE 3)

Figure 10 summarizes the time limits established for the public hearing stage of the review process.

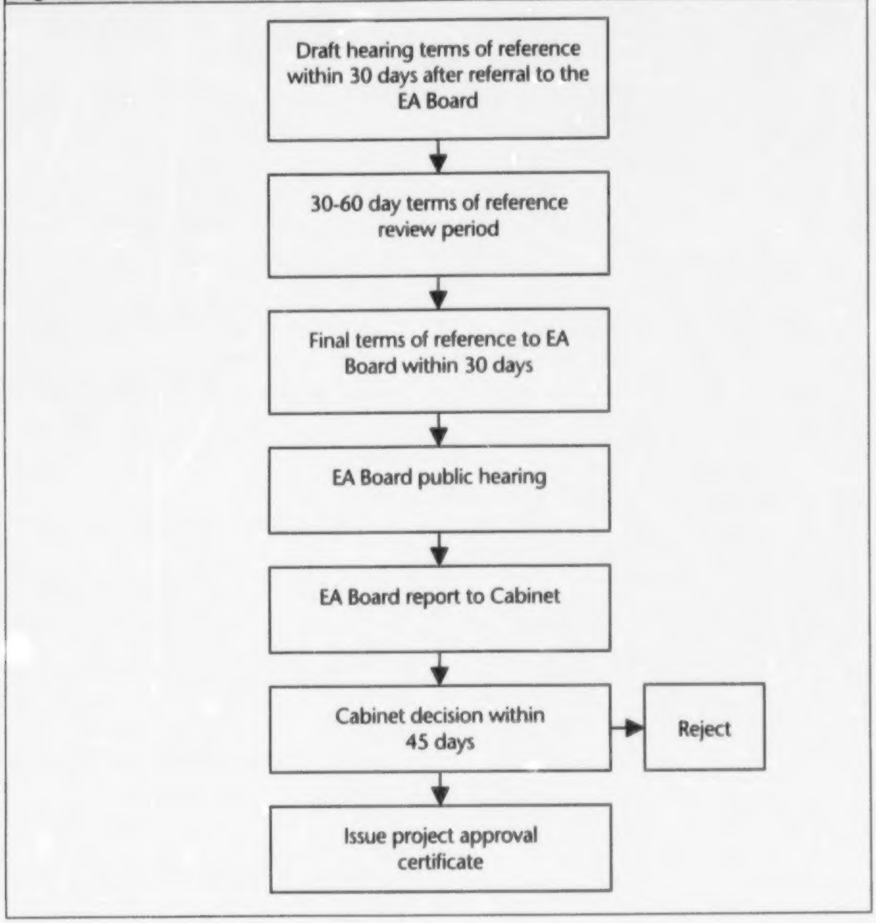


**Figure 10: Time Limits for the Public Hearing (Stage 3)**

Draft hearing terms of reference within 30 days after referral to the EA Board
30-60 day terms of reference review period
Final terms of reference to EA Board within 30 days
EA Board public hearing
EA Board report to Cabinet
Cabinet decision within 45 days
Reject
Issue project approval certificate

The time limits for public hearings are established on a case-by-case basis. The hearing schedule is set by the Ministers in the terms of reference delivered to the EA Board for each hearing. It is expected that the overall hearing process, including the Cabinet's final decision, will take between 6 to 12 months.

Draft terms of reference for the hearing are placed on the Project Registry and the public is invited to comment within a specified 30 to 60 day time frame, commencing not less than seven days after notice is given. All comments received are filed on the Project Registry. Within 30 days of the completion of the specified public review period, the Minister, with the concurrence of the Responsible Minister, issues final terms of reference, which are also posted on the Project Registry.

The EA Board must commence the public hearing no sooner than 15 days after the terms of reference have been placed on the Project Registry. On completion of the hearing, the board issues a written report, which must be filed on the Project Registry within 30 days. Within 45 days of receiving a hearing report from the EA Board, the Lieutenant Governor in Council must order either that a project approval certificate be issued, subject to any necessary conditions, or that a project approval certificate be refused.

## 16.5 TIME LIMITS FOR CONCURRENT ISSUANCE OF PERMIT APPROVALS

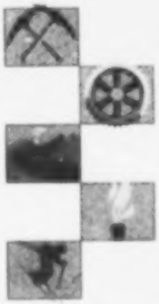
Where statutory permit applications are reviewed concurrently with an EA review, a decision on those permit applications must be made by the responsible regulatory authorities within 70 days of the conclusion of the project report review period (see section 13 of this Guide).

## 17.0 FEDERAL-PROVINCIAL EA REVIEWS

Constitutional jurisdiction for the environment is shared between the federal and provincial/territorial governments. The provinces and territories are responsible for resource management, including forestry, lands, fisheries and wildlife. Each government has legislation governing EA and has established EA procedures. This means that both federal and provincial EA legislation may apply to a single project.

Approximately one-third of the projects certified to date in BC since passage of the Act have also triggered the *Canadian Environmental Assessment Act* (CEAA).

Both the BC Act and CEAA make provision for agreements between jurisdictions to reduce or eliminate overlap and duplication between processes. The following section provides a brief overview of the federal EA process, and discusses current efforts to encourage federal-provincial cooperation on project assessments where both Acts apply.



## 17.1 FEDERAL-PROVINCIAL HARMONIZATION

To encourage cooperation between governments, the federal government and the provinces, through the Canadian Council of Ministers of the Environment, developed a general agreement on environmental cooperation known as the *Canada-Wide Accord on Environmental Harmonization.* The Accord came into force on January 29, 1998. Objectives of the Accord are to enhance environmental protection, promote sustainable development, and achieve greater effectiveness, efficiency, accountability, predictability and clarity of environmental management for issues of Canada-wide interest.

The Accord has several sub-agreements including a sub-agreement on EA. In cases where two or more governments are required by law to assess the same proposed project, the sub-agreement encourages a single assessment and review process designed to meet the requirements of all the governments involved (the sub-agreement does not apply where EA processes have been established as part of Aboriginal land claim or self-government agreements).

In April 1997, the BC government and the federal government developed a bilateral agreement to translate the general framework of the sub-agreement into a specific operating plan. The *Canada-British Columbia Agreement for Environmental Assessment Cooperation* (1997) sets out a procedure for the EA of projects in BC that are reviewable under the BC Act and CEAA. The primary purpose of the bilateral agreement is to achieve the objective of "one project — one assessment" when two reviews are required. The agreement is intended to avoid unnecessary duplication, costs, delays and uncertainty that could arise from separate EAs. At the conclusion of a cooperative EA, both governments make their respective decisions. In this manner, each government retains its decision-making role, but the two decisions are made on the basis of information gathered and analyzed through a single process.

## 17.2 OVERVIEW OF THE FEDERAL ENVIRONMENTAL ASSESSMENT PROCESS

CEAA applies when a federal department or agency is required to make a decision on a proposed project. A project is defined as:

- an undertaking in relation to a physical work, such as any proposed construction, operation, modification, decommissioning or abandonment; or
- any proposed physical activity not relating to a physical work that is set out in the regulations under the Act.

Under CEAA's "triggering" provisions, an assessment is required if a federal authority exercises or performs one or more of the following powers, duties or functions relating to a project:

- proposing the project (known as the "proponent trigger");

- granting money or any other form of financial assistance to the proponent (the "funding trigger");
- granting an interest in land to enable a project to be carried out (e.g., sell, lease or otherwise transfer control of land) (the "land trigger"); or
- exercising a regulatory duty in relation to a project, such as issuing a permit or license, that is included in the Law List prescribed in CEAA's regulations (the "Law List trigger").

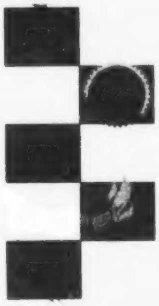
Special provisions of CEAA provide the federal Minister of the Environment with discretionary powers to trigger an EA in exceptional circumstances if the Minister believes the project:

- has potential for significant environmental effects or raises public concerns; or
- may cause significant adverse transboundary environmental effects and no other federal act or regulation applies.

For projects subject to CEAA, the federal agency that has either proposed the project, or has been asked to provide support or approval in the form of funding, land, or a permit, license, or other approval, is referred to as the project's responsible authority (RA). In cases where there are two or more RAs for a project, one of the federal departments will become the lead RA and assume primary responsibility for ensuring that the EA is carried out in compliance with CEAA. RAs that are most often involved in BC EA reviews include Fisheries and Oceans Canada and Environment Canada.

Under CEAA, projects receive a level of EA review tailored to their impact potential. There are four EA review options under CEAA — screening, comprehensive study, mediation and panel review. The *Canada-BC Agreement* applies to screenings and comprehensive studies, and provides for joint panel review.

**Screening** — most projects are assessed by means of a screening which is a "self-directed" review by the designated RA. At the conclusion of a screening assessment, the RA must decide whether or not the project is likely to cause significant adverse environmental effects and whether to allow the project to proceed.



**Comprehensive Study** — larger projects that have the potential for greater environmental effects or that could generate public concerns may require a more detailed assessment through a comprehensive study. Projects that require this level of assessment are described in the Comprehensive Study List Regulations.

**Mediation and Panel Reviews** — the federal Minister of the Environment may order that a panel or mediation process be implemented. Reviews by an independent panel or a mediator appointed by the federal Minister may be required in exceptional circumstances, when major public concerns exist or when the environmental effects are uncertain or likely to be significant.

In BC, detailed information on CEAA is available from the Pacific and Northern Regional Office of the Canadian Environmental Assessment Agency:

Suite 320 — 757 West Hastings St.
Vancouver, BC V6C 1A1

**Tel:** (604) 666-2431
**Fax:** (604) 666-6990

**E-Mail:** CEAA.Pacific@ceaa.gc.ca

**CEAA Website:** http://www.ceaa.gc.ca

# 18.0 OTHER FEATURES OF THE EA PROCESS

Several other features of the EA process may be of interest.

## 18.1 GUIDELINES FOR REVIEW UNDER OTHER ENACTMENTS

Development projects and activities which are not subject to EA review may be subject to provincial permitting and licensing processes under a variety of statutes. Section 40 of the Act provides government with a mechanism for reviewing these processes and methods related to these processes. The Minister and the Minister charged with administration of another enactment may direct the Executive Director to examine aspects of the other enactments relating to:

- the techniques and methods used for preventing or reducing adverse effects of projects submitted for approval under the other enactment; and
- any other processes, practices and procedures in use under the other enactment that are pertinent to applications for approval of projects or activities under that enactment.

The Executive Director may make recommendations for improvements in the processes used *to reach decisions and the measures employed to prevent or* mitigate adverse effects. These recommendations may be adopted by the Minister responsible for administering the processes under consideration.

**FOR EXAMPLE...**
Using section 40, the EAO reviewed the government's management framework for salmon aquaculture operations in BC. The EAO Review resulted in 49 recommendations to Ministers regarding salmon aquaculture practices.

## 18.2 CATEGORY ASSESSMENTS

The Act also enables the development of specifications for "standard effects assessments" for categories of reviewable projects. Category assessments are intended to identify an efficient basis for reviewing issues related to future project applications within a specific category.

Category assessments do not replace the requirement to apply for project approval certificates, but may result in the development of standardized project design and operating specifications for projects of a reviewable scale, which fall within a particular category of projects. The Minister and the Responsible Minister may direct the Executive Director to:

- identify, assemble and examine available information and research pertinent to assessment of one or more reviewable projects in a specified category or categories; and
- based on the examination, prepare draft category assessment specifications relevant to an assessment under the Act of the effects of reviewable projects within the specified category or categories.

The Executive Director must give notice to the public inviting comments on the assessment of effects of these categories of reviewable projects, including the draft specifications, and must circulate a notice inviting comments from provincial government agencies, federal government agencies, municipalities and regional districts, First Nations and neighbouring jurisdictions.

After considering comments within the specified public review period, the Executive Director makes revisions to the draft category assessment specifications and refers these to the Ministers for approval by Cabinet.

After Cabinet approval, the category assessment specifications may be used to facilitate review of projects under the EA process. The Executive Director may make the approved category assessment specifications available to proponents and may accept them in fulfillment or partial fulfillment of the information requirements for an application or project report.

## 18.3 REVIEW OF OTHER MATTERS

The Minister may request the EA Board to consider any matter relevant to the process of assessing projects under the Act where the matter is not also the subject of an application.

# PART D — ENVIRONMENTAL ASSESSMENT ABORIGINAL ISSUES AND CONSULTATIONS

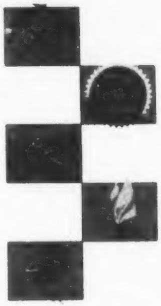
## PREFACE

This section of the *Guide to the British Columbia Environmental Assessment Process* (the Guide) is a revision and consolidation of:

- the Appendix III [First Nations Issues] contained in the 1995 version of the Guide; and
- an operational policy paper [*Legal Obligations Regarding First Nations, 1997]* describing how statutory and common law obligations towards First Nations are fulfilled by the Environmental Assessment Office (EAO).

The revision takes into consideration:

- experience gained since the *Environmental Assessment Act* (the Act) was proclaimed (June 30, 1995);
- recent court decisions on Aboriginal rights and title;
- government policies developed in response to court decisions [Crown Land Activities and Aboriginal Rights Policy Framework and the Post-Delgamuukw Consultation Guidelines, www.aaf.gov.bc.ca/aaf/consult.htm and www.aaf.gov.bc.ca/aaf/pubs/crown.htm];
- recommendations made by Barry Sadler in his 1997 evaluation of the implementation of the Act;[1]



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[1] Sadler Recommendations:

- priority to assist effective First Nations' participation by holding best practices workshops on impact identification methodologies and practices, traditional use studies, issue assessment, and incorporating traditional ecological knowledge and First Nations' values into impact assessment; *(cont'd, see next page)*

- EAO's response to the Sadler recommendations; and
- advice provided by First Nations' EA practitioners in a series of workshops held in 1998-1999.

The provisions of the Act and the information and advice contained in this section of the Guide (and the original Guide), were developed following discussions with First Nations' EA practitioners, proponents, and provincial and federal government officials. The EAO acknowledges and appreciates the advice of everyone who contributed to this Guide. It has seriously considered the advice received. This has been a challenging task given the different and at times conflicting perspectives of the BC Government and First Nations. As a result, the EAO acknowledges that some First Nations may not agree with portions of this Guide. Despite this, all contributors agreed the EA process could be used to reach mutually-acceptable decisions.

The purpose of this section of the Guide is to provide guidance to all parties involved in the EA process but especially proponents and First Nations. It is a government and EAO document.

First Nations' technical advisors identified the need for an EA tool kit with a specific First Nation focus. The kit would contain detailed information and guidance to assist First Nations in making decisions on whether to participate in the EA process, and how to do so effectively.

## 19.0 INTRODUCTION

As a result of provisions in the Act and the legal rights of aboriginal peoples, First Nations play an important role in the EA process. Accordingly, the EAO is committed to working with First Nations in a spirit of cooperation and mutual respect that:

**Recognizes** that First Nations have interests in lands and resources in BC;

**Respects** the desire of First Nations to play an integral role in the management of land, air, water, fish, wildlife and other natural resources;

**Values** aboriginal cultures and traditions by actively encouraging awareness of, and appreciation for them; and

**Fosters cooperation** between governments, proponents and First Nations to arrive at mutually acceptable and timely recommendations.

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- draw up a framework of protocols and principles respecting meaningful proponent consultation and negotiating economic benefits packages.

# 20.0 ABORIGINAL AND TREATY RIGHTS

Aboriginal rights, including aboriginal title and Treaty rights, are recognized and affirmed in section 35 of the *Constitution Act, 1982*. This means that existing aboriginal rights must not be unjustifiably infringed upon by the activities of the Crown or those granted licenses, permits and approvals.

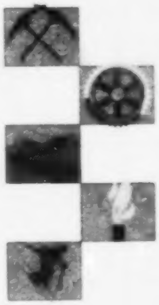
The Supreme Court stated that aboriginal rights could be viewed as being on a spectrum according to their degree of connection with the land. At one end are aboriginal practices and customs that are an integral part of an aboriginal culture and at the other end lies another form of aboriginal right: aboriginal title. Therefore, aboriginal title is a form of aboriginal right with the important distinction that it is a proprietary interest in a specific area of land.

A basic knowledge of aboriginal rights is critical to understanding the nature of legal requirements to consult with First Nations. In order for government to avoid unjustifiable infringements of aboriginal rights and title or derogation from treaty rights, information is needed to determine the nature and exclusive use and occupancy of an area and the current uses of the area for traditional purposes. This information may be obtained in a variety of ways including: EAO consultations; proponent consultations; First Nations' comments and responses; historical, archival and government information; and studies.

In addition to a common law duty of consultation, which is part of the duty to avoid unjustified infringement of aboriginal rights, there is a statutory obligation to consult under the Act. That obligation does not lessen the common law duty but focuses on the issues of project approval. Some of the requirements of the common law duty may be met through the processes set out in the Act.

# 20.1 ABORIGINAL RIGHTS (NOT INCLUDING ABORIGINAL TITLE)

Aboriginal rights in relation to land and resources generally consist of the use of certain areas to carry out communal practices integral to the distinctive culture of the aboriginal society. Aboriginal rights may include fishing, hunting, and trapping for food, and in some circumstances, the use of land and resources for medicinal, spiritual, and ceremonial purposes. Aboriginal rights may be practiced in a modernized form (with changes in technique or technology) and different aboriginal rights may exist on different places depending on the traditional use or occupation of the land in question. Some features of aboriginal rights are:



**Traditional activities** — fishing, berry picking, hunting; using trees, plants, wildlife and water for sustenance, social, spiritual and ceremonial purposes;

**Integral to the distinctive culture** — distinguish First Nations' cultures from other cultures and from each other;

**Site-specific/may vary between First Nations** — a right of one First Nation to harvest cedar trees for canoes may not apply to one that traditionally did not;

**Historical use and occupancy of land** — one First Nation may have a right to use a fishing site because it lived in that area and used the fishing site for generations while another First Nation may not have a similar right if it did not;

**Traditional territories** — areas where First Nations traditionally lived or gathered resources;

**Modernized** — practice not limited to traditional methods or implements;

**Collective** — the practices of only one family may not be aboriginal rights if they are not shared by other members of the First Nation; and

**Coexistence** — a right to hunt may coexist with a right-of-way.

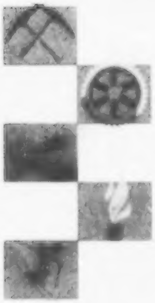
Government activities that prevent the exercise of aboriginal rights may be challenged in the courts and the government is required to justify any activity that interferes with the exercise of an aboriginal right. However, First Nations have the obligation to substantiate that the practice is part of its traditional pre-contact culture, is central and significant to the First Nations' distinctive culture, and has been carried out in the area before it may legally be considered to be a right.

## 20.2 ABORIGINAL TITLE

The *Delgamuukw* decision (Supreme Court of Canada, December 11, 1997) addressed the concept and set out principles with respect to aboriginal title.[2]

### 20.2.1 FEATURES OF ABORIGINAL TITLE

- A right to exclusive use and occupation of land;
- A communally-held proprietary interest;
- Can only be alienated to the federal government;
- The right to choose what uses the land can be put to is not restricted to traditional uses, and includes exploitation of mineral rights;
- Has an "inescapable economic component"; and



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[2] Delgamuukw Decision — www.droit.umontreal.ca/doc/csc-scc/en/pub/1997/vol3/html/1997scr3_1010.html

- Subject to the ultimate limit that those uses cannot destroy the ability of the land to sustain the kinds of activity that made it aboriginal title land in the first place.

### 20.2.2 CRITERIA TO PROVE ABORIGINAL TITLE

- Onus of proof lies with aboriginal groups;
- Land must have been occupied prior to sovereignty (1846);
- Continuity between present and pre-sovereignty occupation (if present occupation is relied on as proof of pre-sovereignty occupation); and
- Exclusive occupancy at sovereignty (can be shared exclusivity).

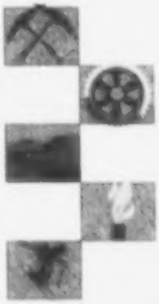
### 20.2.3 INFRINGEMENT OF ABORIGINAL TITLE

- Both federal and provincial governments can infringe aboriginal title in furtherance of a compelling and substantial legislative objective and if consistent with the special fiduciary relationship between the Crown and aboriginal people;
- Infringement may be justified for a variety of reasons (hydroelectric power and infrastructure development, land settlement, economic development, environmental protection) provided it can meet the justification principles established in *Delgamuukw;* and
- Compensation may be payable as part of the justification for infringement (where aboriginal title has been proven to exist).

### 20.2.4 CONSULTATION

Court decisions made prior to and subsequent to the Supreme Court of Canada decision in *Delgamuukw* have encouraged consultation and negotiation over litigation. They have concluded that:

- the Crown has a constitutional duty to consult with aboriginal people when its actions will possibly infringe established aboriginal title;
- the scope of consultation will vary with the circumstances (ranging from discussions carried out in good faith to consent of the First Nation) and in most cases the duty will be significantly deeper than 'mere' consultation;
- consultation must be meaningful;



- consultation must provide information on a project's impact on lands and resources;
- First Nations cannot attempt to stall a project by foregoing participation until the final stages of consultation; and
- consultation is a "two-way street".

## 20.3 TREATY RIGHTS

Treaty rights are those rights held by specific aboriginal groups under a particular treaty. They are recognized and affirmed in Section 35 of the *Constitution Act, 1982* and may vary in scope from one treaty to the next. Legal obligations to consult may apply if treaty rights are being infringed. In BC there are three types of treaties: Douglas Treaties, Treaty 8 and modern treaties.

### 20.3.1 DOUGLAS TREATIES (1850 AND 1854)

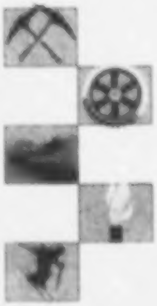
Refers to fourteen treaties around Victoria, Saanich, Sooke, Nanaimo and Port Hardy in which an area of land was surrendered in exchange for cash, clothing, or blankets. The signatories and their descendants retained existing village sites and fields, the "liberty to hunt over unoccupied lands", and the right to "carry on their fisheries as formerly."

### 20.3.2 TREATY 8 (1899)

The following Indian Bands in northeastern BC are part of Treaty 8: Blueberry River, Doig River, Halfway River, Prophet River, West Moberley Lake, Fort Nelson, Saulteau and McLeod Lake. Treaty 8 includes such things as provisions to hunt, fish and trap as formerly on unoccupied Crown lands.

### 20.3.3 MODERN TREATIES

To date only one modern treaty exists in BC. The Nisga'a Final Agreement sets out all Nisga'a rights protected under section 35 of the *Constitution Act, 1982* and includes a general provision on consultation that limits it to those areas specified in the treaty. The Nisga'a Agreement also has EA provisions which involve the Nisga'a Nation in EAs related to Nisga'a lands.[1]



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[1] www.aaf.gov.bc.ca/aaf/treaty/nisgaa/docs/nisga_agreement.html

# 20.4 GOVERNMENT POLICY

The EAO's operational policy falls within, and is consistent with, two provincial policy directives that are essentially the province's response to court rulings on aboriginal rights and title: The Crown Land Activities and Aboriginal Rights Policy Framework and the Post-*Delgamuukw* Consultation Guidelines.[4] Together, these directives are intended to provide the minimum requirements for provincial consultation activities with respect to aboriginal title and aboriginal and treaty rights. In both cases, the province encourages efforts to exceed these minimum requirements. In the case of EA, the statutory requirements contained in the Act are in addition to the common law obligation to consult but may provide much of the information needed by the EAO to meet its common law obligations.

For projects reviewed under the Act, the EAO is the lead provincial agency responsible for ensuring that government's legal obligations are fulfilled (although other provincial agencies may be involved). These include both statutory obligations, spelled out in the Act, and common law obligations to avoid unjustifiable infringements of aboriginal rights or title or derogate from treaty rights. The purpose of this section is to clarify how these different obligations are fulfilled.

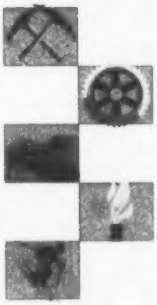
# 20.5 INFRINGEMENT OF ABORIGINAL RIGHTS AND TITLE

Since the obligation to avoid unjustifiable infringement lies with the Crown, a project committee that includes "non-Crown" participants is not the correct forum to deal with this issue. The EAO, and sometimes provincial agencies required to issue permits and approvals, in consultation with the Ministry of the Attorney General, will make assessments prior to the referral of the project committee recommendations report to Ministers.

## 20.5.1 ASSESSING THE RISK

The Crown makes its assessment on the available information collected during the course of the review based on:

- EAO consultations;
- proponent consultations;
- comments and information provided by First Nations;
- existing historical, archival and government information;



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[4] www.aaf.gov.bc.ca/aaf/consult.htm
www.aaf.gov.bc.ca/aaf/pubs/crown.htm

- proponent or other studies undertaken during the review; and
- resolution of issues and concerns at the project committee.

### 20.5.2 DETERMINING POTENTIAL INFRINGEMENTS

The onus of proving a potential infringement lies with the aboriginal group challenging the project. An infringement would likely not occur if the project has little impact on the exercise of aboriginal rights, if the project or activity can be easily accommodated alongside any existing aboriginal rights, and if undue hardship is not imposed on the holders of aboriginal rights. The following factors, based on the Supreme Court of Canada's decisions, are used to make an assessment of a potential infringement:

- whether there is the potential for aboriginal rights existing in the area (see Step 1 of the Post-*Delgamuukw* Consultation Guidelines for factors to consider when assessing the potential for aboriginal title); and
- whether the project on the face of it potentially interferes with those rights. Other factors indicating a potential infringement include: is the limitation of rights unreasonable; does the project impose undue hardship; does the project prevent the holders of the rights the preferred means of exercising them (see Step 2 of the Post-*Delgamuukw* Consultation Guidelines for factors to consider when determining if the project will potentially infringe potential aboriginal title).

### 20.5.3 JUSTIFYING POTENTIAL INFRINGEMENTS

If the potential rights will be infringed, the following illustrates some considerations for determining whether the interference is justified:

- there is a valid legislative objective such as conservation;
- there is as little infringement as possible; and
- there has been consultation and the Crown has fulfilled its "fiduciary" obligations to the First Nation (see Step 3 of the Post-*Delgamuukw* Consultation Guidelines for factors to consider when determining if a potential infringement of aboriginal title can be justified).

### 20.5.4 NEGOTIATING TO MITIGATE POTENTIAL INFRINGEMENTS

If, on the advice of the Ministry of Attorney General, it is determined that there is a potential for an unjustified infringement of a Treaty right or an infringement of aboriginal right or title that cannot be justified, then the EAO may:

- undertake further consultation with the affected First Nations to attempt to accommodate their interests or negotiate a resolution of the issue (see Step 4 of the Post-*Delgamuukw* Consultation Guidelines);

- offer third-party mediation; and
- advise Ministers if an agreement cannot be achieved.

## 21.0 THE ENVIRONMENTAL ASSESSMENT ACT: STATUTORY PROVISIONS

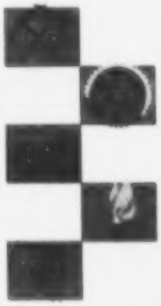
The Act includes specific First Nations-related statutory provisions that are shared between the EAO, the proponent, and the First Nation.

## 21.1 PARTICIPATION IN THE DECISION-MAKING PROCESS

- Any First Nation whose traditional territory includes or is in the vicinity of the project is invited to participate in the project committee established to review and make recommendations on the project [section 9(2)(d)].

## 21.2 INFORMATION SHARING AND CONSULTATION

- Proponents' applications and project reports include a description of First Nations information distribution and consultation activities undertaken and planned [sections 7(2)(k) and (l) and 23(b)];
- Project committees assess the adequacy of the above and can require further measures to be taken [section 14(3)(a)(iii)];
- First Nations and aboriginal people are invited to provide comments about the potential effects of the project [section 17(d)];
- Proponents' applications include existing information pertaining to environmental, economic, social, cultural, heritage and health characteristics and conditions [section 7(2)(b)]; and
- Proponents may be required to prepare project reports containing information and plans for an effective assessment of the potential effects of the project including information and analysis that explain or give particulars of the potential impacts on the exercise of aboriginal rights [section 22(g) and 21(a)].



## 21.3 ADDRESSING IMPACTS

Proponents' applications include a description of the potential effects of the project and measures proposed to prevent or mitigate adverse effects [section 7(2)(f) and (g)].

## 22.0 CONSULTATION: A FIRST NATIONS' PERSPECTIVE

This section is typical of a First Nations' perspective on consultation and is intended to assist proponents. It is derived from comments made by First Nations' EA practitioners on what consultation should be and how, if it is to be considered meaningful by a First Nation, it should incorporate and address First Nations' interests. Those practitioners feel that consultation, while not a joint decision-making process, can nonetheless be a process that leads to mutually acceptable decisions.

This information is included as general guidance to provide proponents with some information on what to expect in discussions with First Nations. It is not intended to suggest that all of these considerations are necessary or appropriate in specific consultations.

## 22.1 CONSULTATION FEATURES

Aboriginal people want to ensure that whatever consultation process is used, they and their concerns will be treated with respect. They want to ensure they are heard before decisions are made. Some of the features they feel demonstrate respect in the consultation process include:

**Early** — should occur as early as possible in the planning of any development and should focus on building relationships (first meeting is often only to make introductions, provide an overview of the project, and begin process of discussing how consultation should be done).

**Comprehensive** — consultation should:

- involve First Nations in relevant studies;
- identify First Nations' interests potentially impacted by a project;
- incorporate community and traditional knowledge into baseline studies;
- identify and develop prevention and mitigation measures to address any significant potential adverse impacts on First Nations' interests; and
- formalize understandings in protocol agreements.

**Flexible** — each consultation will be different since it will depend on the particular political, traditional and social structure and organization of the First Nation(s) potentially affected by the project. This is often achieved by involving First Nations in the design of the consultation process.

**Inclusive** — may involve elected officials and community consultations.

**Understandable information** — there should be opportunities to ask questions and obtain answers; project information should be understandable and may include site tours, visuals and small-scale maps to make easy identification of locations and sites.

**Follow-up** — First Nations may want time to reflect on the information they hear and then schedule follow-up meetings to discuss concerns. Opportunities for both written and oral feedback on projects may be desirable.

**First Nation capacity** — Insufficient human and financial resources may affect the ability of First Nations to consult in a timely and comprehensive manner.

**First Nation agreement** — some issues clearly require First Nation agreement (e.g., use of First Nation reserve land).

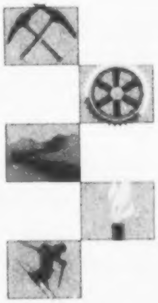
**Informed decision** — the long-term goal should be to arrive at a decision, which is fully informed as to the potential impacts of a project on First Nations' interests.

**Certainty** — a mutually agreed upon decision may provide additional legal certainty.

**Protocol agreements** — may be negotiated that include provisions for resources, time frames, dispute resolution, the involvement of First Nations in the selection of consultants conducting research on topics of interest to First Nations and their role in project monitoring.

**Ongoing** — consultation must not only begin early but may continue into the post certificate permitting stage and include such things as compliance monitoring.

## 22.2 FIRST NATIONS' TRADITIONAL KNOWLEDGE



First Nations may have unique knowledge and information that can be brought into an environmental review process and help inform recommendations and decisions. This community-based knowledge also is seen by some as having the potential to contribute to the conservation, management and sustainable use of biological diversity (which is itself linked to the cultural diversity of indigenous peoples). This information is sometimes referred to as traditional knowledge.[5] Traditional knowledge is a body of knowledge built up over time, and continuing into the present, by people living in close contact with the natural environment and includes understandings of plants and animals (properties or locations), the functioning and management of ecosystems, and the reliance on species for food, medicines, fuel, or shelter. Besides informing the EA process, traditional knowledge can assist with building relationships between proponents responsible for project studies and First Nations.

There are several ways First Nations traditional knowledge and community information can be brought into the EA process: by providing comments, existing studies and information and through studies (archaeology overview and impact assessments, current use of traditional activities, and as sub-components of other studies such as wildlife and socio-economic studies).

First Nations are often concerned about how their knowledge will be used or put into practice and may present the following principles to guide discussions and practices, or as preconditions for imparting their traditional or community knowledge: respect for the rights of the holders of the knowledge; confidentiality (except for mutually agreed upon purposes); involvement of the holders of knowledge; and beneficial use to the interests of the holders of the knowledge.

Proponents, the EAO and First Nations usually work together when planning current and traditional use studies. Such studies are one of several ways of collecting community knowledge and are ideally performed in consultation with the aboriginal people affected and must be conducted in a professional way to ensure credibility. Ideally, they are conducted by someone acceptable to First Nations to avoid disputes about the results. Traditional use studies are not usually done on private fee simple land where there is no legal right of access. Nor are they typically done on land that has been extensively disturbed (any potential aboriginal rights can no longer be practiced), or on linear corridors (room to avoid specific sites that can be identified by a walk about). The information produced from such studies can be integrated with more scientific modes of information collection and are used for the proponent's and the EAO's legal obligations.

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[5] *Guidelines for Environmental Assessments and Traditional Knowledge* [Alan Emory and Associates, 47 Okanagan Dr., Nepean, Ont., K2H 7E9, March, 1997]

## 22.3 FIRST NATIONS' CAPACITY

The assessment of major projects may present resource and capacity issues to some First Nations who may request funding for:

- developing understanding of the review process;
- cost of meetings;
- ceremonial costs;
- travel assistance to participate on project committees;
- professional assistance to enhance participation;
- internal consultation and decision making; and
- economic benefit agreement discussions/negotiations.

The EAO, subject to annual appropriations and government policies, can provide participant assistance funding to assist First Nations to participate in EAs. It will also assist proponents and First Nations to identify other sources of funds.

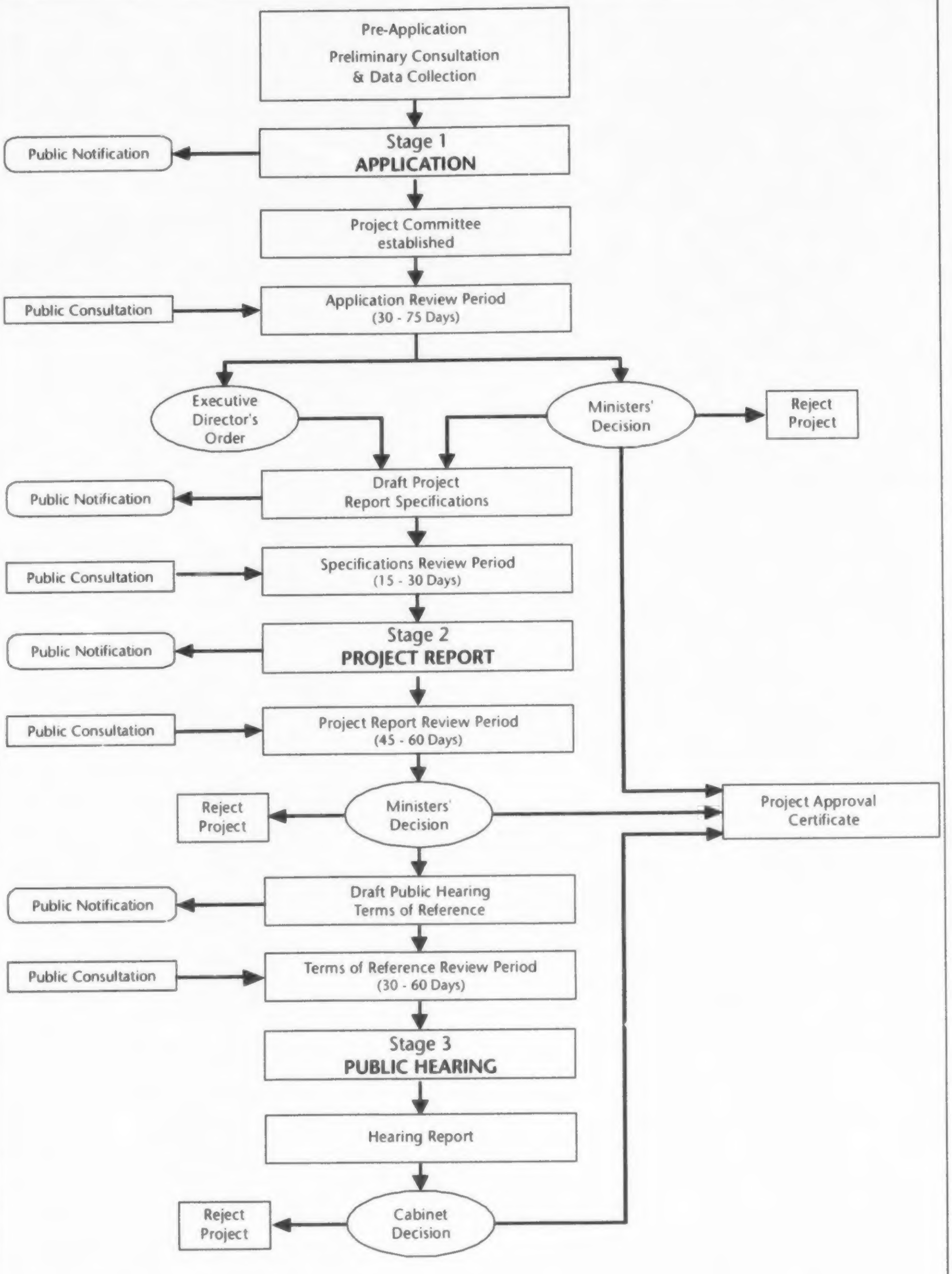
Canada, through the Department of Indian and Northern Affairs Development, has two specific programs to assist First Nations in addressing their economic and environmental interests: the Indian Environmental Assistance Fund, and Resource Access Negotiations.

Proponents are often requested by First Nations to provide assistance. While there is not any specific legal requirement for such funding, First Nations often regard it as important to their meaningful participation and, from a proponent's perspective, there often exists a good business case for providing such funding.

# 23.0 CONSULTATION IN THE ENVIRONMENTAL ASSESSMENT PROCESS

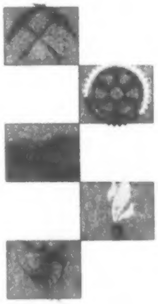
The Act was developed at the same time as the government was developing a new aboriginal policy approach and establishing the treaty process in the province. As a result, the Act enshrines various features regarding consultation and participation that in other cases are conducted as a matter of policy.

**Figure 1: Overview of the EA Process**


Pre-Application
Preliminary Consultation & Data Collection
Stage 1
APPLICATION
Public Notification
Project Committee established
Public Consultation
Application Review Period (30 - 75 Days)
Executive Director's Order
Ministers' Decision
Reject Project
Draft Project Report Specifications
Public Notification
Public Consultation
Specifications Review Period (15 - 30 Days)
Stage 2
PROJECT REPORT
Public Notification
Public Consultation
Project Report Review Period (45 - 60 Days)
Reject Project
Ministers' Decision
Project Approval Certificate
Public Notification
Draft Public Hearing Terms of Reference
Public Consultation
Terms of Reference Review Period (30 - 60 Days)
Stage 3
PUBLIC HEARING
Hearing Report
Reject Project
Cabinet Decision

## 23.1 CONSULTATION ROLES

| **Summary of Roles and Responsibilities with respect to First Nations Consultations** | | |
|---|---|---|
| **EAO** | **First Nations** | **Proponent** |
| • identify and invite FNs to sit on project committees<br>• provide information on process to FNs and proponents<br>• advise proponents on requirements for FN consultation<br>• facilitate meetings with FNs and proponents<br>• establish timelines<br>• monitor and assess the proponent's FN information distribution and consultation<br>• administer participant assistance funding<br>• undertake FN consultation<br>• set up the Project Registry and regional repositories<br>• distribute applications and project reports to FNs<br>• coordinate project committee responses to FN concerns<br>• prepare and distribute draft and final project report specifications to FNs<br>• obtain advice and advise Ministers of the potential for any unjustifiable infringements of Aboriginal rights<br>• monitor certificate conditions and commitments<br>• coordinate post-certificate plans and consultation requirements | • respond to invitation to sit on the project committee<br>• respond to notices with comments about the potential effects of a proposed project<br>• provide advice, analysis and recommendations on matters affecting First Nations' communities<br>• as project committee members, assess the adequacy of the proponent's consultation<br>• contribute to specifications for project reports<br>• as project committee members, evaluate the proponent's plans for prevention and mitigation of any potential adverse effects<br>• as project committee members, make recommendations to Ministers<br>• financial reporting on any participant assistance provided | • describe information distribution & consultation activities conducted with First Nations (issues identified & responses to these issues)<br>• provide plans on proposed consultation with First Nations<br>• prepare studies<br>• advertise the availability of the application or project report<br>• carry out any additional consultation or information measures required by the project committee<br>• identify and address potential adverse effects |



Consultation under EA is intended to focus on the identification and assessment of project impacts and involves the EAO, proponents and First Nations (and the federal government when the *Canadian Environmental Assessment Act* (CEAA) is triggered (see Attachment E). Each has unique obligations and interests that need to be considered in the consultation process.

### 23.1.1 ENVIRONMENTAL ASSESSMENT OFFICE

The EAO has statutory consultation obligations that must be fulfilled regardless of any determination that may be made from an EAO's pre-consultation assessment that no consultation is required as a matter of common law. The EAO will remind provincial government representatives that even though the EAO is the lead agency responsible for First Nations' consultation, in some cases, the EAO's consultations may not remove the consultation obligations of line ministries to consult with First Nations about the impacts of line ministries' permits (see Post-Certificate Consultation). The elements of the EAO's consultation may include:

- providing information on the EA process;
- providing information on the statutory requirements placed on proponents;
- advising on how the EAO intends to fulfil its common law consultation obligations;
- providing information on the EAO's participant assistance policy (see section 4.5.2 of the Guide and Attachment B to Part D of the Guide) and other sources of financial assistance;
- arranging pre-application meetings between proponents, First Nations and other potential project committee members to discuss mandates and interests, timelines, and statutory requirements;
- developing understandings on participation on project committees;
- overseeing proponent's consultations;
- providing advice on the need for, and scope of, studies; and
- requesting comments on applications, draft project report specifications, project reports and project committee recommendation reports.

However, statutory requirements placed on proponents contribute to governments meeting their common law obligations including the assessment of the potential for aboriginal rights and title as per the Post-*Delgamuukw* Consultation Guidelines. In practice, the EAO, the Canadian Environmental Assessment Agency and a proponent often coordinate information sharing, notification and consultation in order to accommodate each other's capacity and schedules.

### 23.1.2 PROPONENTS

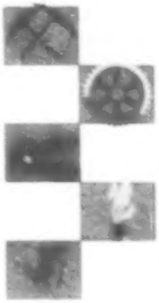
Proponents are required to provide information on the project to First Nations and to consult with them on how the project might affect First Nations. They are also required to identify measures to prevent and mitigate potential adverse impacts the project might have. Proponents are advised to meet with First Nations as early as possible (preferably before preparing the project application) and initially focus on establishing relationships and developing an understanding on how consultation will take place (timelines, capacity requirements, how community and traditional knowledge can be incorporated into studies, and how to deal with potential adverse impacts on First Nations' interests). Proponents are advised to document consultation efforts so project committees can assess their adequacy.

## 23.2 PRE-APPLICATION STAGE

While the Act does not contain statutory provisions on the pre-application period, experience has shown that consultation undertaken by a proponent during the pre-application period may prevent problems from occurring later. First Nations place great importance on pre-application contact and consultation as an opportunity to build positive relationships. Accordingly, the EAO strongly suggests that proponents consider engaging First Nations in consultation prior to submitting formal applications. Information generated from such consultations may be included in a proponent's application and, thus, may be used by a proponent and the EAO in meeting their legal obligations.

### 23.2.1 PURPOSE

- Identify First Nations whose traditional territory is on, or in the vicinity of, the project;
- Build consultative and collaborative relationships;
- Provide First Nations with understandable information about the project;
- Solicit First Nations' involvement in relevant studies;
- Provide First Nations with information on the assessment review process; and
- Identify potential project impacts on First Nations' interests (see Attachment C to Part D).



### 23.2.2 STEPS TAKEN BY THE ENVIRONMENTAL ASSESSMENT OFFICE

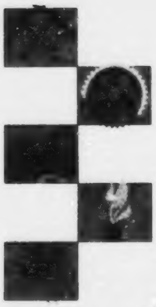
- Identifying First Nations whose traditional territories include the site of the project and those whose territories are in the vicinity of the project by:

consulting maps submitted to the BC Treaty Commission (BCTC); identifying the project area to individual First Nations and tribal associations to obtain advice on interest; and identifying views, if any, of other government agencies.

- Preparing a pre-consultation assessment, in order to provide advice to proponents, First Nations and potential project committee members. The analysis will include an assessment of the potential for the existence of aboriginal rights and title (see section E of the Post-*Delgamuukw* Consultation Guidelines for assessment factors). The pre-consultation assessment will inform the substance and extent of EAO consultations. The following factors will be considered in this "pre-consultation" assessment: location of First Nations and reserves; whether affected First Nations are in the BCTC process; whether there are any overlapping claims; whether the project is on private or Crown land; area and length of time of disturbance of land; likely project impacts; and existing studies determining the potential for aboriginal rights and title issues (see Step 1 Decision in the Post-*Delgamuukw* Consultation Guidelines).
- Meeting with proponents to: learn about the project from the proponent; provide advice and guidance to proponents on which First Nations will be invited to participate in the review; provide information on the review process; provide information on what successful consultation entails; provide advice on preparing applications; answer questions on previous project review experience; and provide information on the role of, and assistance provided by, EAO staff.

## 23.3 APPLICATION AND PROJECT REPORT STAGES

The main purpose of the application review stage is to review the project application to determine if all potential effects of the project are identified and measures to prevent or mitigate potential adverse effects are addressed. During the application review period, proponents should maintain an ongoing dialogue with First Nations, and monitor any First Nations' comments filed on the Project Registry. These efforts help to identify unresolved issues requiring further discussion. The project report review stage is focused on addressing unresolved issues. Both stages include provisions for the assessment of proponent information, distribution, and consultation plans with First Nations.



### 23.3.1 NOTIFICATION AND INFORMATION SHARING

- The proponent and the EAO are required to notify affected First Nations about the application and give an understandable project description, location, and description of on-the-ground impacts (notification should include meetings and may include advertisements and posters).

- The EAO is responsible for ensuring that notification requirements are satisfied within the legislated time limits and may require additional measures such as publication in First Nations' press (see section 24.4 of Part D of the Guide), posting of notices at the proposed development site and at specific gathering places commonly used by the affected First Nations.
- The notice of application should be sent to the First Nations whose traditional territories are on or in the vicinity (may be adversely affected) of the project by sending a standard notice by fax, mail or courier.
- Where First Nations are affiliated with a tribal council, the EAO will ask the First Nations whether, and how, they wish the tribal council to be involved.
- The EAO is required to establish a Project Registry for project documents and may establish satellite repositories in the vicinity of the project.
- The EAO will provide affected First Nations, whether members of the project committee or not, with all project committee documentation, including the proponent's application.
- Following acceptance of an application, the proponent has a responsibility to advertise the availability of the application.

### 23.3.2 FIRST NATIONS' PARTICIPATION

The EAO is required to invite First Nations whose traditional territory includes the site of the project, or is in the vicinity of the project, to sit on the project committee, along with federal, provincial and local governments. The EAO will try to arrange one or more project committee meetings in the community of a First Nation sitting on the project committee if practical. This could provide an opportunity for project committee members to become familiar with the First Nation's interests and the cultural context for those interests.

The participation of First Nations in this EA review is intended to be without prejudice to the First Nations' ability to claim that they have aboriginal rights and title or treaty rights to the area affected by the project. The participation of First Nations in this process is without prejudice to, and will not affect the negotiation of, treaties or self-government agreements.

First Nations have a number of participation options:

**Active** — First Nations participation may include active membership on the project committee (usually one representative/agency).

**Reviewer** — First Nations may participate as reviewers in which case they would receive all project committee documentation, but not be asked to review or comment on the project committee's recommendation report prior to finalization.

**Ex-Officio/Observer** — First Nations may wish not to participate as either active or reviewer status. The EAO will ensure that First Nations are provided information and are also prepared to make arrangements for more direct ex-officio involvement (such as observing the project committee meetings).

**Public** — Aboriginal people are also able to submit comments as part of the public comment features of the Act.

### 23.3.3 PARTICIPANT ASSISTANCE

The EAO may provide participant assistance funding according to government guidelines and subject to appropriations to assist First Nation participation. Generally, participant assistance is intended to cover travel expenses to enable a First Nation's representative to attend project committee meetings and for the hiring of technical expertise to review and comment on applications and project reports where no such staff person is employed by the First Nation. It is not intended to cover the entire costs of participation nor to fund First Nations to duplicate studies or conduct parallel reviews. The EAO administers participant assistance in accordance with the Interim Participant Assistance Policy of BC, 1993 (see Attachment E to Part D). Features of how participant assistance is managed include:

- First Nations are informed of the availability of funding and criteria;
- After an application for assistance is made and accepted, a mutually agreeable set of activities and budget are negotiated which normally include meeting time frames established by the project committee chairperson for submission of comments;
- First Nations are asked to account for the funds received; and
- In some instances, rather than entering into formal funding agreements, the EAO will reimburse the travel costs of First Nations to attend meetings if agreed in advance.

### 23.3.4 ASSESSMENT OF PROPONENTS' CONSULTATION

Besides conducting its own consultations, the EAO requires the proponent to include in the application an account of consultation activities undertaken or planned with First Nations, as well as a summary of First Nations' responses and issues identified. The Act contains provisions for monitoring these consultations. The Executive Director, in consultation with the project committee (which includes First Nations), is responsible for assessing the adequacy of a proponent's consultations. If the consultation is considered to be inadequate, further measures may be required.

### 23.3.5 IDENTIFYING FIRST NATIONS' INTERESTS (SEE ATTACHMENT A TO PART D)

First Nations have many interests, not the least of which is their economic interest. There is no government policy requiring proponents to address First Nations' economic interests or to enter into economic agreements with First Nations. Nonetheless, proponents can expect that First Nations will raise the issue because most First Nation communities want improved economic conditions for their members.

When asked to provide facilitation and advice to proponents on developing business relationships and deriving economic benefits from projects, the EAO will provide examples of formal agreements, provide advice on government programs and services that can support economic agreements, and arrange and facilitate meetings.

Identification of First Nations' interests can be established as follows:

**With First Nations' Participation** — the EAO and the proponent will identify potential adverse impacts on First Nations' interests that must be either addressed or considered through:

- consultation (information provided to the EAO and the proponent identifying the potential adverse project impacts on interests);
- First Nations' responses to a proponent's application or project report and specific studies such as archaeology and traditional use;
- First Nations' comments on draft project report specifications (see Attachment C to Part D); and
- First Nations' comments on draft project committee recommendation reports.

**Without First Nations' Participation** — when First Nations choose not to participate in the review and not to cooperate with consultations or studies to identify any current and traditional use and occupation potentially adversely affected, the EAO may:

- provide First Nations with all project committee meeting notices, agendas, minutes and documents;
- ask First Nations to identify potential adverse effects the project may have on current and traditional use and occupation, and whether these effects have been adequately addressed in the application, project report, and project committee recommendations report;
- ask the proponent to provide information on First Nations' current and traditional use and occupation independently (e.g., independent ethnographic or anthropological studies, archival research, literature reviews);

- prepare a First Nations' consultation chronology with an emphasis on information production and transfer; and
- ask the proponent to document its dealings with First Nations.

### 23.3.6 ADDRESSING IMPACTS ON FIRST NATIONS' INTERESTS

First Nations, other project committee members, and the proponent, based on available information, will discuss how to prevent, mitigate, or accommodate any potential adverse effects the project may have on First Nations' interests.

- An aboriginal issues sub-committee composed of relevant project committee members and First Nations may be established to do this.
- It is not uncommon for project committees to develop terms and conditions of certification specifically related to First Nations' issues.
- Letters of commitment made by proponents may be attached to, or incorporated into, project approval certificates.
- Project committee recommendations reports will identify the comments and issues raised by First Nations and how they are addressed. These reports are first prepared in draft form and distributed to project committee members for comment and sign off.[6] Comments on draft recommendations reports received from First Nations will typically be incorporated into the project committee recommendations report and Ministers will be fully apprised of First Nations' views on the project.
- When the project committee is not in complete agreement that all potential adverse effects have been adequately addressed, the EAO will advise ministers of dissenting or minority opinions.

## 23.4 POST-CERTIFICATE CONSULTATION

The EA certification decision signifies an agreement-in-principle that a project should proceed. As such, it provides a high degree of certainty to proponents that there is minimal risk to the project and they can proceed with the detailed planning necessary to obtain required permits and approvals. Accordingly, the EAO is the best place in which to assess risk and to ensure that the government's legal obligations towards First Nations are fulfilled.

While the EA process serves to narrow, and in some cases fully address, permit-level issues, provincial ministries issuing permits and approvals may want to consult on specific impacts (especially those linked to specific First Nation land use interests such as re-vegetation or avoidance of wildlife in final design route planning).

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[6] First Nations normally have their own internal community process to arrive at a position on a project that may include consideration of environmental effect prevention/mitigation and benefits to the First Nation.

Permitting agencies may also be required to consult with First Nations about unjustified infringements of aboriginal rights if: they are specified to do so as a term and condition of a project approval certificate; the certificate level consultations were not specific to the on-the-ground impacts with respect to a specific permit; or if there are significant design changes.

In order to ensure there are no misunderstandings about the certificate-permit linkage, and to improve coordination between the EA process and post-certification permit reviews, project committees may also:

- identify permit information requirements; and
- establish structures for permit consultation with the public and First Nations (such as designating a lead government contact, establishing a permit coordinating committee, or establishing liaison/advisory/monitoring committees that may include First Nations and the public.

These discussions on post-certificate consultation will need to take into account consultation provisions of any agreements entered into between government, the proponent and First Nations, since such agreements may deal with resources for supporting post-certificate activities.

# 24.0 BOOKS, PUBLICATIONS AND LINKS

## 24.1 GOVERNMENT PUBLICATIONS

- *A Guide to Aboriginal Organizations and Services in British Columbia* (addresses and phone/fax numbers). Available from Ministry of Aboriginal Affairs, Communications Branch, 908 Pandora Avenue, Victoria, B.C. V8V 1X4 (phone (250) 356-0330; fax 387-1785) or by internet at www.aaf.gov.bc.ca/aaf/pubs/orglist1.htm
- *Talking Circle*, B.C. Hydro Aboriginal Relations, 333 Dunsmuir Street, 14th floor, Vancouver, B.C., V6B 5R3
- *Information Sheets on Services and Programs and Basic Departmental Data*, Indian and Northern Affairs Canada, Communications, 300-1550 Alberni Street, Vancouver, B.C., V6G 3C5
- *Information Sheets*, Ministry of Aboriginal Affairs, Communications Branch
- *Archaeological Impact Assessment Guidelines and Archaeological Resource Handbook*, Ministry of Small Business, Tourism and Culture, Archaeology Branch

## 24.2 BOOKS

- *Aboriginal Peoples and Politics: the Indian Land Question in British Columbia,* 1849-1989, Paul Tennant, University of British Columbia Press, 1990
- *A Travellers Guide to Aboriginal B.C.*, Cheryl Coull, Whitecap Books, 1996
- *Contact and Conflict,* Robin Fisher, UBC Press, 1977
- *Corporate Aboriginal Relations,* Roger Hill and Pam Sloan
- *Prospering Together: The Economic Impact of the Aboriginal Title Settlements in B.C.*, edited by Roslyn Kunin, Laurier Institute, 1998
- *Sweet Promises: a Reader on Indian-White Relations in Canada,* J.R. Miller (ed.), University of Toronto Press, 1991
- *The First Nations of British Columbia,* Robert J. Muckle, 1998
- *Treaty Talks In British Columbia,* Chris McKee, UBC Press, 1997

## 24.3 INTERNET SITES

### GOVERNMENT OF BRITISH COLUMBIA

- EAO: www.eao.gov.bc.ca
- Ministry of Aboriginal Affairs: www.aaf.gov.bc.ca/aaf/homepage.html
- Ministry of Environment, Lands and Parks: www.env.gov.bc.ca:80/main/index.html
- Ministry of Forests Traditional Use Study Data Base: www.for.gov.bc.ca/aab/int_msrs/tusdbase.htm
- Ministry of Small Business, Tourism and Archaeology, Archaeology Branch Policies and Programs: www.archaeology.gov.bc.ca/policy/archpol.htm

### GOVERNMENT OF CANADA

- Aboriginal Business Canada: www.abc.gc.ca
- CEAA: www.ceaa.gc.ca/act/index_e.htm
- Consolidated Statutes of Canada: canada.justice.gc.ca/FTP/EN/Laws/Title/C/index.html
- Indian and Northern Affairs, Canada: www.inac.gc.ca
- Indian Bands in British Columbia, DIAND: http://esd.inac.gc.ca/fnprofiles/FNProfiles_List.asp?Province1=BC

**OTHER**

- BC Superior Courts: www.courts.gov.bc.ca/welcome.htm
- BC Supreme Court Decision on Huckleberry Mine: www.courts.gov.bc.ca/jdb-txt/sc/97/17/s97-1717.txt
- BC Treaty Commission: bctreaty.net
- Delgamuukw v. British Columbia: www.droit.umontreal.ca/doc/csc-scc/en/pub/1997/vol3/html/1997scr3_1010.html
- Henderson's Annotated Indian Act: http://www.bloorstreet.com/200block/sindact.htm
- Native Links: www.johnco.com/nativel/
- Turtle Island Native Network: www.turtleisland.org/front/_front.htm
- Centre for Indigenous Environmental Resources: www.cier.mb.ca/
- First Nations Environmental Network: www.fnen.org/

## 24.4 ABORIGINAL NEWSPAPERS IN BRITISH COLUMBIA

- Ravens Eye: www.ammsa.com/raven
- Kahtou, 5526 Sinku Drive, P.O. Box 192, Sechelt, BC V0N 3A0; (604) 885-7391
- First Nations Drum: www.firstnationsdrum.com
- Native Voice, 200-1755 E. Hastings, Vancouver, BC, V5L 1T1, (604) 255-3137
- Ha-Shilth-Sa (Nuu Cha Nulth)
- Secwepemec News (Shuswap), 345 Yellowhead Highway, Kamloops, BC V2H 1H1, (250) 828-9784

# 25.0 ATTACHMENTS TO PART D

## ATTACHMENT A TO PART D — EXAMPLES OF FIRST NATION INTERESTS RAISED IN REVIEWS

This list is provided strictly as an example to proponents of the type of interests sometimes raised by First Nations. It is not intended to imply that a proponent is obligated to address all of theses interest in specific instances nor that they must be met or considered in any specific project.

### Economic

First Nations often approach environmental assessments from the perspective of their potential economic interests in a project. Accordingly, they see a need to look at benefit agreements as a part of doing business (rather than a cost of doing business).

- number of jobs aboriginal people are eligible and are qualified for
- training opportunities for aboriginal workers
- potential income levels for aboriginal workers
- impacts on land tenure/lease arrangements on reserve
- potential economic return to the aboriginal communities
- potential benefits to aboriginal communities in the vicinity of the project (e.g., subsidized power supply, service contracts, etc.)
- employment equity practices (all phases of project)
- number of aboriginal people unable to continue traditional fishing, hunting and trapping activities in the area
- existing tourism activities which could be affected
- loss of land use, foreshore use, mineral use
- impacts on current aboriginal food sources/food as an income source for the community

### Environmental Impacts

- medicinal herbs and plants traditionally gathered in the area
- traditional aboriginal food sources (quantity, quality)
- water quality, supply & food sources (of non-toxic particulate sediments)
- of any increased access to previously isolated areas

- of seismic effects (e.g., in oil and gas exploration)
- the cumulative effect (especially on wildlife) that a specific project may have in combination with other projects is often an important consideration to a First Nation from a sustainable development perspective within their overall traditional territory. Accordingly, requests for comprehensive cumulative effect studies are often raised during the course of reviews

### Social Impacts

- services for aboriginal people (education, housing, health care, recreation, judicial, fire protection, etc.)
- aboriginal community social stability
- any proposed relocation of any community
- community infrastructure that may affect aboriginal communities (e.g., water supply, sewage)
- number of people able to move back to a community due to employment opportunities provided by a project
- community-healing projects
- off-reserve housing
- isolated communities from an outside workforce unfamiliar with aboriginal culture
- lifestyles (e.g., conflict with the need to harvest medicinal herbs and work schedule)
- community cohesion/family breakdown

### Heritage and Cultural Impacts

- impacts on archaeological sites of interest to aboriginal people
- impacts on designated aboriginal cultural sites
- issue of documented, but not designated, sites
- issue of secret sites (e.g., ritual bathing pools)
- effects on undocumented aboriginal cultural sites with no physical presence (e.g., two-week berry picking)
- way of identification of sites unrecorded on current maps

### Health Impacts

- long-term cumulative impact of emissions and discharges on aboriginal people living in the area, taking account of extended exposures based on typical water consumption, food ingestion, air exposure
- need for a holistic view of health, applying the World Health Organization definition

## ATTACHMENT B TO PART D — SUMMARY OF THE BC INTERIM PARTICIPANT ASSISTANCE POLICY, 1993

The purpose of participant assistance is to provide support to a First Nation, which would otherwise be unable to participate effectively in reviews due to financial constraints, and where a demonstrated need exists for assistance.

All requests for assistance should be submitted to the Aboriginal Relations Coordinator or Project Assessment Director. These requests will be evaluated with reference to government policy and the funds available for participant assistance.

Participant assistance will be administered in accordance with the Interim Participant Assistance Policy, Province of BC, 1993 used by all government agencies, boards and commissions that offer public assistance in their public involvement programs.

### Eligibility Criteria

- accepted invitation to participate or has developed an agreed-upon process for involvement
- significant interest in the project
- ability & willingness to make a substantial contribution to the process which would otherwise not be represented (satisfying the requirements of the EA process)
- insufficient existing resources to allow for effective participation
- reasonable efforts have been made to acquire alternative sources of funding
- willingness to work with other groups or individuals with like interests, with priority given to First Nations' organizations and groups over individuals (to minimize funding duplication)
- proof of being a recognized spokesperson (mandate) can be demonstrated
- commitment to contribute time and resources is made
- clear description of intended use of funds is provided
- proof of financial controls/accountability is demonstrated

### Eligible Expenses

- travel, accommodation, and meals to approved process events, in accordance with government rates
- dependent care, normally incurred for the purpose of participating in the review process

- remuneration for individuals whose participation is not a function of paid employment and who experience hardship by foregoing income from employment (to a maximum of $175/day)
- costs of hiring mutually agreed-upon professional experts to address specific issues identified during the process
- other agreed-upon expenses essential to ensure effective participation

## ATTACHMENT C TO PART D — GENERIC PROJECT REPORT SPECIFICATIONS FOR FIRST NATIONS' ISSUES

The proponent will:

1. Provide a summary of consultations undertaken and planned with the First Nation, including any plans for ongoing (e.g., post EA) consultation and identification of impacts on their interests.

2. Report on the results of consultations and provide details regarding the identification of impacts on aboriginal interests, (unless specifically prevented from doing so as a result of bilateral confidentiality agreements with the First Nation, in which case it should be so noted).

3. Make its best efforts to identify any potentially adverse impacts of the project on First Nation interests. It is recognized that this usually results from a First Nation articulating its interest (either as a response to a request from the EAO and the proponent, or through consultative processes) or as a result of specific studies undertaken in cooperation with a First Nation.

4. Detail measures to prevent or mitigate any significant adverse effects on First Nation interests at, and in the vicinity of, the project site.

**Note:**

1. In cases where a proponent is required by these specifications, or is reliant upon working jointly or cooperatively with an agency or the First Nation to collect information or undertake studies, and, where the Executive Director is satisfied that the proponent, despite efforts made in good faith, has been unable to do so, the proponent is to provide the information and make its assessment independently.

2. The Terms of Reference for the studies must be approved by the EAO in consultation with the First Nation and the proponent.

## ATTACHMENT D TO PART D — GUIDELINES FOR SUBMISSION OF FIRST NATIONS' COMMENTS

### Introduction

The Act provides for a comprehensive review process of major projects except forestry. All other projects are assessed through permit and approval processes.

The EAO is a neutral office that manages the process and provides administrative support to the project committee.

A project committee, made up only of First Nations, provincial, federal, and local governments, is established for each project to provide advice and analysis for the project review, and to make recommendations to Ministers to approve or not approve a project.

A decision to approve or not to approve a project is made by two ministers, the Minister of Environment, Lands and Parks and the "Responsible Minister" (e.g., the minister in whose jurisdiction the project falls) or by Cabinet.

A project may go through up to three review stages. At the end of the first two stages of review a decision is made whether to approve or not to approve the project, or to refer it to the next stage of review.

During stage 1, the application review stage, the application is made available for review by First Nations, government agencies, and the public. There is a set review time period for comments to be received by the EAO.

The comments received are placed on the Project Registry for anyone who would like to see them.

The comments are important to the deliberations of the project committee, which has to determine:

1. if the consultation and information distribution process proposed and undertaken by the proponent is adequate to meet the needs of the community (s. 14 of the Act specifies that the project committee assess the adequacy of consultation and can specify further measures to be undertaken); and

2. if the application:
   (a) adequately describes the potential effects of the project, including all significant potential adverse effects; including potential adverse impacts on the exercise of aboriginal and treaty rights; and

(b) sets out practical means of preventing or reducing to an acceptable level all significant adverse effects of the project.

## Providing Comments on an Application

First Nations should review and comment on the application from two perspectives:

1. The adequacy of the proponent's consultation and information distribution process with First Nations; and

2. First Nation interests that may be impacted by the project.

   a) Assess whether or not the application:

      i) adequately describes the potential effects of the project (for example with respect to sacred places; food and medicine plants; fish and wildlife (including hunting and trapping); increased access by non-aboriginals; and interference with access by First Nations to traditional hunting, fishing, food gathering, or sacred sites by roads, fences, gates, railways and no trespassing signs); and

      ii) sets out practical means of preventing, or reducing to an acceptable level, any significant adverse potential effects of the project.

   b) Based on this assessment, indicate:

      i) if your band/tribal association can recommend, in principle, that the application be forwarded to the ministers for a decision for or against project approval at this time; or

      ii) whether there are issues which need to be addressed further through response from the proponent, or additional study which requires that the project proceed to the second stage of review (e.g., the preparation of a project report).

   c) If there are issues that require further analysis and/or mitigation, please provide:

      i) a brief statement concerning the basis for your band's/tribal association's concern(s);

      ii) the significance of the issue(s) to project acceptability; and

      iii) additional information required regarding potential impacts and mitigation measures.

## ATTACHMENT E TO PART D — *CANADIAN ENVIRONMENTAL ASSESSMENT ACT* (CEAA) AND CONSULTATION ISSUES

CEAA is federal legislation that sets out the responsibilities and procedures for the EA of projects for which the federal government has decision-making responsibilities. The fundamental purposes of CEAA is to ensure that federal departments are aware of, and carry out, their obligation to assess the environmental effects of a project early on in the project's development, and before any irrevocable decisions are made.

Once it is determined that the CEAA applies, the federal department, agency or Minister whose actions or decision-making responsibilities trigger the Act, is referred to as the responsible authority (RA). The RA proceeds with the EA and, depending on the type of EA conducted, either the RA (for a screening) or the Minister of the Environment (for a comprehensive study) determines whether further assessment by an independent panel or an environmental mediator is required. At any time during the EA, the federal Minister of the Environment can refer a project for mediation or panel review, if the project is likely to cause significant adverse environmental effects or if public concerns warrant.

All EAs subject to CEAA require the RA to consider the following factors:

- the environmental effects of the project, including cumulative effects, and the effects of possible accidents or malfunctions;
- the significance of the environmental effects;
- technically and economically feasible measures that would reduce or eliminate any significant adverse environmental effects;
- any other matter the RA feels is relevant; and
- public comments, if any.

For projects that trigger a CEAA assessment and that require a comprehensive study (listed in the *Comprehensive Study List* regulations), the EA must also consider:

- the purpose of the project;
- alternative means of carrying out the project;
- the capacity of renewable resources that are likely to be significantly affected;
- public comments; and
- the need for, and requirements of, any follow-up program.

Under CEAA, "environment" is defined in biophysical terms. However, the definition given for "environmental effects" is broader and includes ". . . any change that the project may cause in the environment, including any effect of such change on health and socio-economic conditions, on physical and cultural heritage, on the current use of lands and resources for traditional purposes by aboriginal persons or on any structure, site or thing that is of historic, archaeological, paleontological or architectural significance". This is how the effect of a change in the environment caused by a project on the current use of lands for traditional purposes is considered in a CEAA assessment. It is important to note that CEAA may be triggered for both very small to very large projects.

It is not uncommon — especially in larger projects such as mines or pipelines — for a project to trigger both the Act and CEAA. To address this, Canada and BC have agreed to conduct project reviews in accordance with the *Canada-British Columbia Agreement for Environmental Assessment Cooperation* (1997). This harmonization agreement sets out a cooperative regime for conducting EAs that are subject to the requirements of both the Act and CEAA. Under the agreement, a single assessment is carried out for each project subject to a joint review; however, both governments retain decision-making authority under their respective legislation. To achieve this objective, the EA being conducted under CEAA is undertaken and completed using the BC EA process.

# PART E – APPENDICES TO THE GUIDE

1. **BC ENVIRONMENTAL ASSESSMENT ACT**
2. **BC ENVIRONMENTAL ASSESSMENT REVIEWABLE PROJECTS REGULATION**
3. **BC ENVIRONMENTAL ASSESSMENT PRESCRIBED TIME LIMITS REGULATION**
4. **GUIDELINES FOR THE PREPARATION OF AN APPLICATION FOR A PROJECT APPROVAL CERTIFICATE**
5. **GUIDELINES FOR PROPONENTS ON CONSULTING THE PUBLIC IN THE ENVIRONMENTAL ASSESSMENT PROCESS**
6. **GUIDELINES FOR THE PUBLIC ON HOW TO PARTICIPATE IN THE ENVIRONMENTAL ASSESSMENT PROCESS**
7. **PROJECT REGISTRY WEB PUBLISHING DETAILS**
8. **SAMPLE OF PERMIT COORDINATION DOCUMENTS**
9. **TABLE OF STATUTORY CROSS REFERENCES BETWEEN THE EA GUIDE AND THE *ENVIRONMENTAL ASSESSMENT ACT***

ENVIRONMENTAL ASSESSMENT OFFICE

# APPENDIX 1

# BC ENVIRONMENTAL ASSESSMENT ACT

BRITISH
COLUMBIA

# ENVIRONMENTAL ASSESSMENT ACT

## CHAPTER 119

*[Updated to September 6, 2000]*

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## PART 1 – DEFINITIONS AND PURPOSE

### Definitions

1 In this Act:

**"approval under another enactment"** means any approval, licence, permit or other authorization under another enactment and the plural forms of that expression have a corresponding meaning;

**"board"** means the Environmental Assessment Board;

**"effects"** means environmental, economic, social, cultural, heritage and health effects;

**"executive director"** means the individual appointed under section 59 as the Executive Director of the Environmental Assessment Office;

**"first nation"** means an aboriginal governing body, however organized and established by aboriginal people within their traditional territory in British Columbia;

**"municipality"** has the same meaning as in the *Local Government Act* except that it includes the City of Vancouver;

**"project"** means any

(a) activity that has or may have adverse effects, or

(b) construction, operation, modification, dismantling or abandonment of a physical work;

**"project approval certificate"** means a certificate issued by the minister under section 20 or 30 or issued by the minister pursuant to an order of the Lieutenant Governor in Council under section 34;

**"project registry"** means the project registry established under section 61;

**"proponent"** means any person that proposes to undertake a reviewable project, and includes the government of Canada, British Columbia, a municipality, a regional district, another province or another jurisdiction;

**"responsible minister"** means the member of the Executive Council that the Lieutenant Governor in Council designates by order as the minister responsible for a specified reviewable project or specified category of reviewable projects;

**"reviewable project"** means a project that is within a category of projects prescribed under section 3 or that is designated by the minister under section 4, and includes

(a) the facilities at the main site of the project,

(b) any offsite facilities related to the project that the executive director may designate, and

(c) any activities related to the project that the executive director may designate.

### Purposes

2 The purposes of this Act are

(a) to promote sustainability by protecting the environment and fostering a sound economy and social well-being,

(b) to provide for the thorough, timely and integrated assessment of the environmental, economic, social, cultural, heritage and health effects of reviewable projects,

(c) to prevent or mitigate adverse effects of reviewable projects,

(d) to provide an open, accountable and neutrally administered process for the assessment

(i) of reviewable projects, and

(ii) of activities that pertain to the environment or to land use and that are referred to the board in accordance with the terms of reference mentioned in section 51 (1) (c), and

(e) to provide for participation, in an assessment under this Act, by the public, proponents, first nations, municipalities and regional districts, the government and its agencies, the government of Canada and its agencies and British Columbia's neighbouring jurisdictions.

## PART 2 – ENVIRONMENTAL ASSESSMENT PROCESS

### Division 1 – Application of this Act

**Reviewable projects**

**3** (1) The Lieutenant Governor in Council may make regulations prescribing what constitutes a reviewable project for the purposes of this Act.

(2) For the purpose of a regulation under subsection (1), the Lieutenant Governor in Council by regulation may

(a) categorize projects according to size, production or storage capacity, location, potential for adverse effects, type of industry to which the projects are related or on any other basis that the Lieutenant Governor in Council considers appropriate, and

(b) provide differently for the different categories of projects.

(3) Subject to subsection (4), this Act and the regulations do not apply to

(a) a forest practice, as defined in the *Forest Practices Code of British Columbia Act*, or

(b) an activity on land that is not Crown land as defined in the *Forest Act*, if

(i) the land is identified land, as defined in the *Forest Land Reserve Act*, and

(ii) the activity would be a forest practice if it were carried out on Crown forest land as defined in the *Forest Practices Code of British Columbia Act*.

(4) Subsection (3) does not affect the discretion of

(a) the Lieutenant Governor in Council under subsection (1) to make regulations prescribing that the construction, operation, modification, dismantling or abandonment of any type of timber processing facility, as defined in section 1 of the *Forest Act*, constitutes a reviewable project,

(b) the minister under section 4 to make an order designating as a reviewable project the construction, operation, modification, dismantling or abandonment of a timber processing facility, as defined in section 1 of the *Forest Act*, or

(c) the executive director to designate, for the purpose of paragraph (c) of the definition of reviewable project in section 1, any of the activities, described in subsection (3), that are related to the construction, operation or modification, dismantling or abandonment of the facilities of any reviewable project.

### Minister's power to designate a project as reviewable

**4** The minister by order may designate a project, proposed but not yet substantially started at the time of designation, as a reviewable project, even though it does not constitute a reviewable project under the regulations if the minister is satisfied that the project has or may have a significant adverse effect and that the designation is in the public interest.

### Prohibition against proceeding without approval

**5** (1) Despite any other enactment, a person must not

(a) undertake or carry on any activity that is a reviewable project, or

(b) construct, operate, modify, dismantle or abandon the facilities of a reviewable project,

unless the person first obtains a project approval certificate for the reviewable project.

(2) Despite any other enactment, a person must not

(a) undertake or carry on an activity that is a reviewable project, or

(b) construct, operate, modify, dismantle or abandon the facilities of a reviewable project,

except in accordance with a valid project approval certificate.

### Effect on permits, etc. under other enactments

**6** (1) Despite any other enactment, a minister, employee or agent of the government or an employee or agent of a municipality or regional district must not issue an approval under another enactment for a person to

(a) undertake or carry on an activity that is a reviewable project, or

(b) construct, operate, modify, dismantle or abandon all or part of the facilities of a reviewable project,

unless satisfied that the person has a valid project approval certificate for that reviewable project.

(2) Despite any other enactment, an approval under another enactment is without effect if it is issued contrary to subsection (1).

## Division 2 – Applying for a Project Approval Certificate

**Application**

7 (1) The proponent of a reviewable project may apply for a project approval certificate by applying in writing to the executive director and paying the prescribed fee.

(2) An application for a project approval certificate must state the name, address and title of the proponent and of the individual having responsibility for answering questions relating to the application and must include or be accompanied by a preliminary overview of the reviewable project, including but not limited to a description of

(a) the purpose and major components of the project,

(b) existing information pertaining to environmental, economic, social, cultural, heritage and health characteristics and conditions in the vicinity of the project,

(c) onsite and offsite facilities of or associated with the project,

(d) the construction plan for the project and a timetable for the completion of the construction,

(e) any new or expanded public works or undertakings that will be required because of the project,

(f) the potential effects of the project,

(g) the measures that the proponent proposes in order to prevent or mitigate adverse effects,

(h) any relevant plans pertaining to land use and to related resource issues in the area of the project that are authorized under an enactment,

(i) public information distribution activities and consultation activities undertaken by the proponent and a summary of the public response and of the issues identified,

(j) any program of public information distribution or consultation proposed by the proponent during the next stages of project planning and review,

(k) information distribution activities and consultation activities undertaken by the proponent with a first nation and a summary of the first nation's response and of the issues identified,

(l) any program of information distribution or consultation proposed by the proponent with a first nation during the next stages of project planning and review,

(m) any discussions undertaken by the proponent about the effects of the project, with ministries or agencies of the government of British Columbia, with departments or agencies of the government of Canada, with municipalities or regional districts or with British Columbia's neighbouring jurisdictions,

(n) the issues identified in the discussions referred to in paragraph (m), and

(o) any other prescribed information.

**Acceptance of application for review**

**8** (1) Within the prescribed period after receiving an application for a project approval certificate, the executive director must

(a) accept the application for review if it meets the requirements of section 7, and deliver written notice of the acceptance to the proponent, or

(b) withhold acceptance of the application for review if the application does not meet the requirements of section 7, and deliver written notice to the proponent, giving particulars of the deficiencies.

(2) The executive director, in any notice delivered under subsection (1) (a), must specify the number of copies of the application needed from the proponent for the purpose of the review and require the proponent to supply the copies.

## Division 3 – Committees

**Project committee**

**9** (1) After an application for a project approval certificate has been accepted under section 8 for review and within the prescribed period after the proponent supplies the copies referred to in section 8 (2), the executive director must establish a project committee for the reviewable project that is the subject of the application.

(2) The executive director must invite each of the following to nominate a number of individuals not exceeding the number specified for that nominator by the executive director, to represent the nominator on a project committee established under subsection (1):

(a) the government of British Columbia;

(b) the government of Canada;

(c) any municipality or regional district in the vicinity of the project or in which the project is located;

(d) any first nation whose traditional territory includes the site of the project or is in the vicinity of the project;

(e) any of British Columbia's neighbouring jurisdictions in the vicinity of the project.

(3) After the establishment of a project committee and at the request of a body listed in subsection (2) (a) to (e), the executive director may invite that body to nominate to the project committee a number of individuals, not exceeding the number specified by the executive director, from any agency or department of a body listed in subsection (2) (a) to (e), not already represented on the project committee at the time of the invitation.

(4) An individual who ceases to be a member of a project committee may be replaced by an individual to be named to the committee by the original nominator, and a

project committee is comprised of the continuing nominees under subsections (2) and (3) and any individuals named to the committee as replacement members.

(5) The executive director is the chair of a project committee unless the executive director delegates the responsibility of chairing that committee to another individual employed in the Environmental Assessment Office.

(6) Subject to the regulations, a project committee may

(a) determine its own procedure, and

(b) provide for the conduct of its meetings.

**Purpose of project committee**

**10** The purpose of a project committee established for a reviewable project is, in respect of that project,

(a) to provide to the executive director, the minister and the responsible minister expertise, advice, analysis and recommendations, and

(b) to analyze and advise the executive director, the minister and the responsible minister as to,

(i) the comments received in response to an invitation for comments under this Act,

(ii) the advice and recommendations of the public advisory committee, if any, established for that reviewable project,

(iii) the potential effects, and

(iv) the prevention or mitigation of adverse effects.

**Public advisory committees**

**11** (1) At any time after an application for a project approval certificate has been filed at the project registry, the executive director may establish for the reviewable project that is the subject of the application a committee to advise and make recommendations to the project committee on matters of public concern.

(2) The executive director may appoint to the committee individuals, each of whom is interested in, or represents an organization that is interested in, the outcome of the review of the application.

(3) A public advisory committee may

(a) determine its own procedure,

(b) provide for the conduct of its meetings, and

(c) for the project for which the committee is established, invite representatives of a body referred to in section 9 (2) (a), (b), (c), (d) or (e) to attend its meetings and participate in its advice and recommendations.

## Division 4 – Amendments to Application

**Proponent may request amendments**

**12** (1) A proponent that intends to make a material change to

(a) a reviewable project that is the subject of an application for a project approval certificate that has been accepted under section 8 for review, or

(b) the manner of implementing the reviewable project,

may submit a written request to the executive director to amend the existing application as necessary to accommodate the intended change.

(2) The request for amendments must set out the particulars of the intended amendments to the application and must be submitted before issuance or refusal of a project approval certificate under section 20, 30 or 34.

**Discretion to allow amendments**

**13** (1) Within the prescribed period after receiving a request under section 12 to amend an application for a project approval certificate, the executive director, on the recommendation of the project committee, must

(a) make an order allowing the amendment, and deliver written notice of the order to the proponent if

(i) the request adequately describes the intended changes to the project or to the manner of implementing the project or both, as the case may be, and

(ii) there will be adequate opportunity in the next stages of the review of the application to assess the intended changes and to take the changes into account in deciding whether or not to issue a project approval certificate, or

(b) make an order refusing to allow the amendment, and deliver written notice of the order to the proponent, if the criteria in paragraph (a) (i) and (ii) are not satisfied.

(2) An order under subsection (1) (a) may

(a) vary the review process as considered necessary by the executive director, on the recommendation of the project committee, and

(b) contain conditions relating to publicizing the intended changes and their potential effects.

(3) An order under this section must be accompanied by written reasons.

## Division 5 – Distribution of Information for Comment

**Public information and consultation**

**14** (1) After

(a) the acceptance for review of an application under section 8 for a project approval certificate and within the prescribed period after the proponent supplies the copies referred to in section 8 (2), or

(b) the acceptance for review of a project report under section 26 and within the prescribed period after the proponent supplies the copies referred to in section 26 (2),

the executive director, in consultation with the project committee, must make a written assessment of the adequacy of any measures that the proponent has taken or proposed relating to the distribution of information about the reviewable project that is the subject of the application or project report.

(2) The proponent must advertise the availability of the application or project report, as the case may be, in the prescribed manner.

(3) The written assessment may

(a) specify further measures necessary to ensure adequate distribution of information about the reviewable project, including but not limited to each or any combination of the following measures:

(i) the advertisement of the application for a project approval certificate or of the project report, as the case may be;

(ii) public consultation;

(iii) consultation with one or more first nations;

(iv) the distribution to persons or organizations, specified by the executive director, of copies of the application or project report, or notices of their availability for inspection at one or more locations specified by the executive director,

(b) set a period within which the specified further measures are to be carried out, and

(c) assign responsibility for carrying out each of the specified further measures, either to the proponent or to the Environmental Assessment Office.

(4) The Environmental Assessment Office or the proponent, depending on which of them is assigned the responsibility under subsection (3) (c) for a specified further measure, must carry out that measure within the period set for it under subsection (3) (b).

### Cost of distributing information

15 (1) The proponent is liable for the cost of carrying out any measure for which the executive director assigns responsibility under section 14 (3) (c), including any cost incurred by or on behalf of the Environmental Assessment Office in carrying out a measure for which that office is assigned the responsibility.

(2) Despite subsection (1), the executive director may direct that the liability for the cost of a measure for which he or she assigns responsibility under section 14 (3) (c) be shared by the proponent and the Environmental Assessment Office in the proportions specified by the executive director.

**Public comment on steps in the review process**

**16** (1) Within the prescribed period after any of the following steps in the review of a reviewable project, the executive director must give notice to the public inviting comments, relevant to that step, about the potential effects of the project:

(a) the receipt by the executive director from the proponent of the copies, referred to in section 8 (2), of the application accepted under section 8 for review;

(b) the preparation, under section 21, of the draft project report specifications;

(c) the receipt by the executive director from the proponent of the copies, referred to in section 26 (2), of a project report accepted under section 26 for review;

(d) the preparation, under section 31, of the draft terms of reference.

(2) In a notice under subsection (1) the executive director must specify a period within the prescribed limits during which any comments must be received at the office of the executive director in order to be taken into account

(a) in the decision under section 19 to either

(i) refer the application to the minister and responsible minister for a decision under section 20, or

(ii) order that the project report be prepared under Division 7 and that the project undergo further review under Division 8,

(b) in preparation in final form under section 24, of the project report specifications,

(c) in a referral, under section 29, of the application to the minister and responsible minister for a decision under section 30, or

(d) in the preparation in final form, under section 32, of the terms of reference.

**Circulating material internally and to others**

**17** Within the prescribed period after each of the steps referred to in section 16 (1), in the review of a reviewable project, the executive director must circulate, to the extent that it is practical and appropriate to do so, a notice of that step, inviting comments about the potential effects of the reviewable project from

(a) within the government of British Columbia,

(b) the government of Canada and its agencies,

(c) municipalities or regional districts in the vicinity of the project or in which the project is located,

(d) first nations whose traditional territory includes the site of the project or is in the vicinity of the project, and

(e) any of British Columbia's neighbouring jurisdictions in the vicinity of the project.

**Proponent's opportunities to respond**

18 Within the prescribed period after expiry of a period specified under section 16 for receiving comments about the potential effects of a reviewable project, the executive director must

(a) advise the proponent of any comments received in response to an invitation under section 16 or 17, and

(b) give the proponent an opportunity to respond in writing to the comments other than those relating to the preparation, under section 31, of the draft terms of reference for the public hearing.

## Division 6 – Decision on an Application for a Project Approval Certificate

**Decision**

19 (1) Within the prescribed period after expiry of the period specified under section 16 for receiving comments about an application for a project approval certificate, and after taking into account the application and any comments about it that have been received, the executive director, on the recommendation of the project committee, must

(a) refer the application to the minister and responsible minister for a decision under section 20, or

(b) order that a project report be prepared in accordance with Division 7 and that the project undergo further review under Division 8.

(2) However, the executive director may make a referral under subsection (1) (a) only if he or she, in consultation with the project committee,

(a) ascertains, and in the referral reports to the ministers, that any specified further measures under section 14, relating to the distribution of information about the project, have been carried out,

(b) considers, and in the referral reports to the ministers, that the application identifies and adequately describes the potential effects of the project, including all significant adverse potential effects, and

(c) examines, and in the referral reports to the ministers about, whether or not, in the opinion of the project committee, the application sets out practical means of preventing or reducing to an acceptable level all significant adverse effects of the project.

(3) A referral under subsection (1) (a) must be accompanied by recommendations of the project committee relevant to a decision under section 20 and by the reasons for those recommendations.

(4) An order under subsection (1) (b) must be accompanied by recommendations of the project committee relevant to a review under Divisions 7 and 8 and by reasons for those recommendations.

(5) Notice of a referral or order under this section must be delivered to the proponent.

**Ministers' power to approve, reject or require further review**

**20** Within the prescribed period after the referral, under section 19, of an application for a project approval certificate to the minister and the responsible minister

(a) the ministers must consider the application and any recommendations of the project committee,

(b) the minister with the concurrence of the responsible minister must

(i) issue the project approval certificate to the proponent and attach any conditions to the certificate that the ministers consider necessary,

(ii) refuse to issue the project approval certificate to the proponent, or

(iii) order that a project report be prepared in accordance with Division 7 and that the project undergo further review under Division 8,

(c) the ministers must give written reasons for a decision under paragraph (b), and

(d) the decision and reasons must be delivered to the proponent.

## Division 7 – Preparation of a Project Report

**Draft project report specifications**

**21** Within the prescribed period after an order, under section 19 (1) (b) or 20 (b) (iii), that a project report be prepared and that the project undergo further review, the executive director must

(a) prepare project report specifications in draft form that identify, and require the project report to contain or be accompanied by, any information, analysis, plans and other records that the executive director, on the recommendation of the project committee, considers relevant to an effective assessment of the potential effects of the project, and

(b) deliver a copy of the draft project specifications to the proponent.

**Matters to be included in project report**

**22** Without limiting section 21, the project report specifications may identify, and may require the project report to contain or be accompanied by, information and analysis that reveal, explain or give particulars of

(a) the rationale for the project,

(b) the site selection procedure for the project, the reason why the site was chosen and a description of alternative sites considered,

(c) the existing environmental, economic, social, cultural, heritage and health characteristics and conditions that may be affected by the project,

(d) the potential for direct and indirect effects of the project,

(e) alternatives to the methods of construction, operation, modification, dismantling or abandonment proposed in the application,

(f) the potential effects of the alternatives referred to in paragraph (e),

(g) potential impacts on the exercise of aboriginal and treaty rights under section 35 of the *Constitution Act, 1982,*

(h) health issues,

(i) the potential for accidents with adverse effects,

(j) data necessary or useful to enable the assessment of the probable cumulative effects of the project,

(k) the potential cross-boundary effects of the project, and

(l) means of incorporating energy efficiency and energy conservation measures into the design and operation of the project.

### Plans to be provided

23 Without limiting section 21, the project report specifications may identify, and require the project report to contain or be accompanied by, one or more plans, showing in a manner satisfactory to the executive director how the proponent intends to carry out all or any combination of the following:

(a) public consultation about the project;

(b) consultation with first nations whose traditional territory includes the site of the project or is in the vicinity of the project;

(c) measures to prevent or mitigate adverse effects of the project;

(d) monitoring the effects of the project;

(e) evaluating the adequacy of any measures proposed to prevent or mitigate adverse effects of the project.

### Preparation and submission of project report according to specifications

24 Within the prescribed period after expiry of the period specified under section 16 for receiving comments concerning the draft project report specifications, the executive director must

(a) prepare the project report specifications in final form by making any revisions that the executive director, on the recommendation of the project committee, considers necessary for an effective assessment of the potential effects of the project, and

(b) deliver the final form of the project report specifications to the proponent together with a request that the proponent

(i) prepare the project report in accordance with the project report specifications, and

(ii) submit the project report to the executive director for review under Division 8.

## Division 8 – Review of a Project Report

**Definitions for Division 8**

**25** In this Division:

**"approval"** includes a licence, permit or other authorization or an amendment to any of them;

**"specified enactment"** means

(a) section 13 (5) (licence to carry on the business of aquaculture) of the *Fisheries Act*,

(b) any of the following provisions of the *Forest Act*:

  (i) section 48 (free use permit);

  (ii) section 51 (authorization of an agreement in the form of a licence to cut to a person who does not otherwise have the right to harvest Crown timber);

  (iii) section 115 (road permit and road use permit for timber harvesting);

  (iv) section 117 (road use permits for industrial use),

(c) section 2 (4) and (5) (special use permit) of the *Forest Practices Code of British Columbia Act*,

(d) section 12 (permit to alter an archeological site) of the *Heritage Conservation Act*,

(e) section 54 (permit for access to controlled access highway) of the *Highway Act*,

(f) section 5 (certificate granting leave for an industrial road to cross or join, or be crossed or joined, by a public road or highway) of the *Highway (Industrial) Act*,

(g) section 10 or 11 (permit for work in, on or about a mine) of the *Mines Act*,

(h) either of the following provisions of the *Mining Right of Way Act*:

  (i) section 3 (consent or permit to take and use private land, or to use Crown land, for a right of way);

  (ii) section 4 (1) (b) (written approval described in that provision relating to the taking and using of private land, or the using of Crown land, for a right of way),

(i) section 20 (park use permit) of the *Park Act*,

(j) either of the following provisions of the Sewage Disposal Regulation, B.C. Reg. 411/85:

  (i) section 3 (authorization for the construction, installation, alteration or repair of a sewage disposal system);

(ii) section 4 (authorization to use, operate or cover a sewage disposal system,

(k) section 17 or 18 (an energy removal certificate) of the *Utilities Commission Act,*

(l) either of the following provisions of the *Waste Management Act:*

(i) section 10 (permit to introduce waste into the environment, to store special waste or recycle special waste);

(ii) section 11 (approval for the introduction of waste into the environment, the storage of special waste or the treatment or recycling of special waste),

(m) any of the following provisions of the *Water Act:*

(i) section 8 (approval for the diversion, use, or both, of water);

(ii) section 9 (approval for making changes in and about a stream);

(iii) section 7, 12 or 14 (water licence), or

(n) section 2 (permit for the construction, alteration, or extension of a waterworks system) of the Safe Drinking Water Regulation, B.C. Reg. 230/92.

### Accepting a project report for review

**26** (1) Within the prescribed period after the submission of a project report to the executive director in accordance with a request under section 24 (b) (ii), the executive director, on the recommendation of the project committee, must

(a) accept the project report for review if it meets the final form of the project report specifications and deliver written notice of the acceptance to the proponent, or

(b) withhold acceptance of the project report for review if the project report does not meet the final form of the project report specifications and deliver written notice to the proponent, giving particulars of the deficiencies.

(2) The executive director, in any notice delivered under subsection (1) (a), must specify the number of copies of the project report needed from the proponent for the purpose of the review and require the proponent to supply the copies.

### Concurrent process under other enactments

**27** At any time after the acceptance, under section 8, of a proponent's application for a project approval certificate but not after the proponent submits the project report under section 24 (b), the proponent may deliver notice to the executive director

(a) identifying the approvals that the proponent is applying for under the specified enactments in relation to the reviewable project that is the subject of the project report,

(b) attaching or enclosing the copies of the applications and supporting material, confirming that the applications have been filed under the specified enactments, and

(c) requesting that those applications be given consideration under the specified enactments concurrently with the continuing review under this Act of the proponent's application for a project approval certificate.

**Special provision for concurrent process**

**28** (1) It is the duty of the ministry receiving an application and supporting material, under a specified enactment,

(a) to proceed expeditiously with the consideration and any review of the application, in accordance with the specified enactment,

(b) to inform the proponent and the project committee, within the same prescribed period as that prescribed for the purpose of section 29 (2), that, subject to any order that may be made under section 34 (2), the approval applied for under the specified enactment

(i) will be issued after section 6 of this Act allows it to be issued but within the period prescribed for the purpose of subsection (2), indicating the conditions, if any, that are likely to be attached at the time of approval,

(ii) will be refused, indicating the reasons for the intended refusal, or

(iii) will be postponed to a later date for a decision, indicating the reasons for the postponement.

(2) Within the prescribed period after the issuance of a project approval certificate under this Act, the appropriate authority under the specified enactment under which the proponent of the project applies for an approval must

(a) issue the approval applied for,

(b) refuse to issue the approval applied for, giving the reasons for the refusal, or

(c) specify a later date on which the proponent may expect a decision under the specified enactment, giving the reasons for the postponement.

**Referral to ministers for decision**

**29** (1) In making a referral, under this section, of an application for a project approval certificate, the executive director must take into account the application, the project report and any comments received about them.

(2) Within the prescribed period after expiry of the period specified under section 16 (2), for receiving comments concerning the project report, the executive director, on the recommendation of the project committee, must refer the application to the minister and responsible minister for a decision under section 30.

(3) Despite subsection (1), the executive director must not make a referral under this section unless any specified further measures under section 14, relating to the distribution of information about the project, have been carried out.

(4) A referral under this section may be accompanied by recommendations of the project committee relevant to a decision under section 30.

**Ministers' power to approve, reject or refer to board**

**30** (1) Within the prescribed period after the referral, under section 29, of an application for a project approval certificate to the minister and the responsible minister,

(a) the ministers must consider the application and any recommendations of the project committee,

(b) the minister with the concurrence of the responsible minister must

(i) issue a project approval certificate to the proponent and attach any conditions to the certificate that the ministers consider necessary,

(ii) refuse to issue the project approval certificate to the proponent, or

(iii) refer the application to the Environmental Assessment Board for the public hearing required under section 52,

(c) the ministers must give written reasons for the decision under subsection (1) (b), and

(d) the decision and written reasons must be delivered to the proponent.

(2) If a referral is made under subsection (1) (b) (iii), the Lieutenant Governor in Council may designate a regular or temporary member of the board to act as chair for the purpose of the public hearing.

**Minister to specify draft terms of reference for public hearing**

**31** (1) Within the prescribed period after the referral of an application for a project approval certificate to the Environmental Assessment Board, under section 30 (1) (b) (iii),

(a) the minister with the concurrence of the responsible minister must specify draft terms of reference for the public hearing, required under section 52, of the application, and

(b) the draft terms of reference must be delivered to the proponent.

(2) The draft terms of reference may include either or both of the following:

(a) a requirement that the board inquire into, and recommend whether, in relation to the application for a project approval certificate that is referred, any approvals should be given under one or more of the specified enactments;

(b) a requirement that the Environmental Assessment Board's hearings of specified applications for project approval certificates be consolidated into one hearing.

**Final terms of reference**

**32** Within the prescribed period after expiry of the period specified under section 16 for receiving comments concerning the draft terms of reference for the public hearing of an application for a project approval certificate, the minister with the concurrence of the responsible minister must

(a) prepare the final form of the terms of reference, by making any revisions to the draft terms of reference that the ministers consider necessary, and

(b) deliver the terms of reference in final form to the proponent of the project.

**Report to Lieutenant Governor in Council after public hearing**

**33** On conclusion of a public hearing, under section 52, of an application for a project approval certificate, the board must submit to the Lieutenant Governor in Council a written report that includes

(a) the board's recommendation whether to issue or refuse to issue the project approval certificate applied for,

(b) if the board recommends issuance of the project approval certificate, the board's further recommendations as to any conditions for the project approval certificate that the board considers necessary, including but not limited to conditions relating to

  (i) preventing or mitigating any adverse effects of the project,

  (ii) monitoring the effects of the project, and

  (iii) evaluating the adequacy of the measures to prevent or mitigate the adverse effects of the project,

(c) if the board recommends issuance of the project approval certificate and the terms of reference for the public hearing included the consideration of matters relating to the issuance of any approvals under one or more of the specified enactments, the board's further recommendations as to

  (i) the issuance, under the relevant specified enactments, of the approval or approvals, and

  (ii) any conditions for the approval or approvals, and

(d) a summary of the evidence received and submissions made in the course of the public hearing.

**Lieutenant Governor in Council's decision to approve or reject**

**34** (1) Within the prescribed period after receiving the board's report under section 33, the Lieutenant Governor in Council must order that

(a) the project approval certificate that is the subject of the report be issued by the minister, subject to any conditions that the Lieutenant Governor in Council may specify, or

(b) the project approval certificate be refused.

(2) In an order made under subsection (1) (a) the Lieutenant Governor in Council may also order that any approvals, under one or more of the specified enactments, be issued in relation to the project, within the prescribed time after the date of the project approval certificate, and subject to any conditions that the Lieutenant Governor in Council may specify in the order.

(3) An order under subsection (1) is final and binding.

(4) If the Lieutenant Governor in Council makes an order under subsection (2), requiring the issuance of an approval under one or more of the specified enactments, any person, board, tribunal or agency that, apart from this Act, has the authority or power to issue or decide to issue the approval must issue it in accordance with the order, despite anything in the specified enactments.

(5) Despite anything in the specified enactments, the issuance of an approval under a specified enactment, in accordance with an order made under subsection (2), is

(a) final and binding, and

(b) not subject to review or appeal under that enactment.

## Division 9 – Project Approval Certificate

### When project begins

**35** (1) A project approval certificate must specify a deadline, at least 3 years and not more than 5 years after the issue date of the certificate, by which the holder of the certificate must substantially start the project.

(2) On application by the holder of a project approval certificate, the minister with the concurrence of the responsible minister may extend the deadline specified in the certificate.

(3) An application under this section must state the reasons why the proponent wishes an extension of the deadline.

### Project approval certificate remains in effect

**36** Subject to cancellation or suspension under section 71, a project approval certificate remains in effect for the life of the project.

### Project may proceed in stages

**37** A project approval certificate may allow the holder of the certificate to implement the project in stages that are identified in the certificate.

### Conditions on project approval certificates

**38** (1) A project approval certificate may contain, in addition to other conditions attached under this Act, conditions that require the holder of the certificate, on an ongoing basis,

(a) to monitor any effects of the project,

(b) to compare the anticipated effects of the project, as set out in the project report, with the actual effects of the project,

(c) to evaluate the adequacy of the measures taken by the holder to prevent or mitigate any adverse effects of the project, and

(d) to report in writing to the executive director the results of the activities described in paragraphs (a) to (c).

(2) The conditions that, under this section or another provision of this Act, may be attached to a project approval certificate for a reviewable project include conditions applicable to the construction of that reviewable project and, after completion of its construction, to the subsequent operation, modification, dismantling or abandonment of the facilities constructed.

## PART 3 – GUIDELINES FOR REVIEW AND CATEGORY ASSESSMENT REQUIREMENTS

### Division 1 – Review Guidelines for Other Enactments

**Definitions for this Division**

**39** In this Division:

**"another enactment"** and **"other enactment"** refer to an enactment that authorizes the issuance of an approval that is required under that enactment for any

(a) activity that has or may have adverse effects, or

(b) construction, operation, modification, dismantling or abandonment of a physical work,

whether or not the activity, or the construction, operation, modification, dismantling or abandonment, constitutes a reviewable project under this Act;

**"approval"** includes a licence, permit or other authorization.

**Guidelines for review under other enactments**

**40** (1) The minister and the minister charged with the administration of another enactment jointly may direct the executive director, in accordance with terms of reference specified by the ministers, to examine

(a) the methods in use under the other enactment for the prevention or reduction of adverse effects of projects that are the subjects of applications for approvals under the other enactment, and

(b) any other processes, practices and procedures in use under the other enactment that are pertinent to decisions under it in relation to applications for approvals and the renewal, amendment, cancellation and suspension of approvals.

(2) The executive director must report the results of an examination under subsection (1) to the minister and the minister charged with the administration of the other enactment, including in the report recommendations, consistent with the purposes of this Act, for improvements in

(a) the processes, practices and procedures examined by the executive director, and

(b) the methods in use under the other enactment for the prevention or mitigation of adverse effects.

(3) After receiving the report of the executive director under subsection (2), and after taking into account the recommendations contained in the report, the minister charged with the administration of the other enactment, acting with the concurrence of the minister, may issue guidelines, to be followed by the employees and agents of the ministry administering the other enactment, respecting

(a) the processes, practices and procedures under the other enactment in relation to applications for approvals and the renewal, amendment, cancellation and suspension of approvals, or

(b) the methods in use under the other enactment for the prevention or mitigation of adverse effects.

(4) The guidelines referred to in subsection (3) must be consistent, in the opinion of the minister and the minister charged with the administration of the other enactment, with this Act and with the other enactment to which the executive director's report under this section pertains.

## Division 2 – Category Assessment Specifications

### Draft category assessment specifications

41 The minister and the responsible minister jointly may direct the executive director, for one or more categories of reviewable projects specified by the ministers,

(a) in accordance with terms of reference specified by the ministers, to identify, assemble and examine available information and research that is pertinent generally to the assessment under this Act of the effects of reviewable projects that are in the specified category or categories, and

(b) based on the examination, to prepare, in draft form, category assessment specifications that identify and describe information, analysis, plans and other records that are relevant to the assessment under this Act of the effects of reviewable projects that are in the specified category or categories.

### Public comment on draft specifications

42 (1) The executive director must give notice to the public inviting comments relevant to the assessment under this Act of the effects of reviewable projects that are in the category or categories specified under section 41 by the ministers.

(2) In a notice under subsection (1) the executive director must specify a period during which any comments must be received at the office of the executive director in order to be taken into account in preparation under section 44 of the revised category assessment specifications.

### Circulating material internally and to others

43 The executive director must circulate, to the extent that it is practical and appropriate to do so, a notice inviting comments, relevant to the assessment under this Act of the

effects of reviewable projects that are in the category or categories specified under section 41, from

(a) within the government of British Columbia,

(b) the government of Canada and its agencies,

(c) municipalities and regional districts,

(d) first nations, and

(e) British Columbia's neighbouring jurisdictions.

### Revised category assessment specifications

**44** After expiry of the period specified under section 42 (2) for receiving comments, the executive director must

(a) make any revisions to the category assessment specifications that the executive director considers necessary for an effective assessment of the potential effects of reviewable projects that are in the category or categories specified under section 41 by the ministers, and

(b) refer the category assessment specifications to the ministers for approval by the Lieutenant Governor in Council.

### Lieutenant Governor in Council approval

**45** The Lieutenant Governor in Council may approve category assessment specifications, referred under section 44, for use in the review under Part 2, of reviewable projects that are in a category or categories specified under section 41 by the ministers.

### Category assessment

**46** If category assessment specifications have received the approval of the Lieutenant Governor in Council under section 45, the executive director may make them available to proponents and may accept them in fulfillment or partial fulfillment of the obligations of proponents to provide the types of information set out in sections 7 and 21 to 24, as those obligations pertain to the reviewable projects that are in the category or categories to which the category assessment specifications apply.

### Amendments

**47** (1) This Division applies to the amendment of category assessment specifications that have been approved under section 45.

(2) Despite subsection (1), but subject to first receiving the approval of the Lieutenant Governor in Council, the minister and responsible minister jointly may direct the executive director to make minor amendments to category assessment specifications approved under section 45.

## PART 4 – ENVIRONMENTAL ASSESSMENT BOARD

**Environmental Assessment Board**

**48** (1) The Environmental Assessment Board is continued consisting of not more than 3 regular members, each appointed under subsection (2) for a term of at least 3 years, and the temporary members appointed under subsection (3).

(2) The Lieutenant Governor in Council must appoint, as regular members, individuals who, in the opinion of the Lieutenant Governor in Council, have expertise relevant to the assessment of the environmental, economic, social, cultural, heritage and health effects of projects.

(3) The Lieutenant Governor in Council may appoint as temporary members, for the purpose of a matter or matters referred to the board, individuals who, in the opinion of the Lieutenant Governor in Council have relevant expertise or special knowledge.

(4) The Lieutenant Governor in Council must designate one of the regular members as the chair of the board.

(5) The chair of the board supervises the board and directs its work and staff.

**Organization into panels**

**49** (1) The chair of the board may organize the board into panels, each comprised of one or more members.

(2) The members of the board may sit as a board or as a panel of the board.

(3) If members of the board sit as a panel,

(a) one or more panels may sit at the same time,

(b) the panel has the jurisdiction of, and may exercise and perform the powers and duties of, the board, and

(c) an order, decision or action of the panel is an order, decision, or action of the board.

**Remuneration, etc.**

**50** (1) The Lieutenant Governor in Council may set the remuneration of the members of the board and the terms of their appointments.

(2) [Repealed 1999-44-45.]

**Mandate of the board**

**51** (1) It is the duty of the board, and it is empowered,

(a) to conduct public hearings into, and review and make recommendations to the Lieutenant Governor in Council concerning, applications for project approval certificates that are referred to the board by the minister with the concurrence of the responsible minister under section 30,

(b) in accordance with terms of reference specified by order of the minister under section 88,

(i) to conduct a review of a matter referred by the minister under section 88, and

(ii) to report back to the minister, and

(c) in accordance with terms of reference specified by order of the Lieutenant Governor in Council acting under the authority of another Act,

(i) to conduct a review of the effects, as defined in this Act, of activities pertaining to the environment or to land use that are contemplated or proposed under that other Act, and

(ii) to report the results of the review to the Lieutenant Governor in Council.

(2) If directed to do so under the terms of reference referred to in subsection (1) (b) or (c), the board must conduct public hearings in respect of the matters referred.

### Public hearings on applications referred to board

**52** (1) The board must conduct, in accordance with the terms of reference specified under section 32, a public hearing into an application for a project approval certificate referred to the board under section 30 by the minister with the concurrence of the responsible minister.

(2) A public hearing under subsection (1) must not begin sooner than 15 days after the terms of reference specified under section 32 have been filed at the project registry.

### Notice of public hearing

**53** (1) The board must give notice, in accordance with this section, of a public hearing that is required under section 51 or 52.

(2) The notice must

(a) state the time, date and place of the public hearing and, in general terms, the subject matter of the public hearing, and

(b) be published and distributed in the prescribed form and manner.

(3) If the hearing relates to an application for a project approval certificate, the executive director must deliver a copy of the notice to the proponent in advance of the publication of the notice.

### Conduct of hearings

**54** (1) The board may determine the procedures to be followed for the purposes of public hearings required under section 52.

(2) Hearings are open to the public and may be conducted in an informal manner.

(3) The board may receive or accept evidence whether or not it would be admissible in a court of law.

(4) In a hearing before the board or a panel of the board, if a member is absent or unable to attend the hearing, the member is disqualified from continuing to participate in the hearing, and the member or members remaining present may exercise and perform all the jurisdiction, powers and duties of the board.

(5) The board may exclude the public from a hearing for the purpose of receiving evidence if the board considers that the desirability of avoiding disclosure of the evidence in order to protect the interest of any person, or to protect the public interest, outweighs the desirability of public disclosure.

### Public hearing fees and charges to proponent

**55** (1) For a public hearing under this Act, the minister may order the proponent of a reviewable project that is the subject of the hearing to pay prescribed fees or charges for the costs that are incurred by or on behalf of the board for or in relation to the hearing.

(2) If a public hearing under this Act relates to more than one reviewable project, the minister may apportion the fees or charges, as the minister thinks fit, between or among the proponents of the reviewable projects.

### Powers of inquiry

**56** (1) For the purposes of a public hearing required under section 30, the board has the powers, privileges and protection given under sections 12, 15 and 16 of the *Inquiry Act* to a commissioner appointed under Part 2 of that Act.

(2) For the purpose of a matter that the minister refers to the board under section 88, the minister by order may confer on the board the powers, privileges and protection given under sections 12, 15 and 16 of the *Inquiry Act* to a commissioner appointed under Part 2 of that Act.

(3) For the purpose of a review referred to in section 51 (1) (c), the Lieutenant Governor in Council by order may confer on the board the powers, privileges and protection given under sections 12, 15 and 16 of the *Inquiry Act* to a commissioner appointed under Part 2 of that Act.

### Annual report

**57** (1) As soon as practicable after the end of the fiscal year of the government, the board must submit to the minister an annual report that includes a list of projects for which public hearings were conducted and a summary of the results of those public hearings.

(2) The board may include in the report recommendations in regard to performing its functions under this Act.

(3) The minister must promptly lay the report before the Legislative Assembly if it is in session and, if it is not in session when the report is submitted, within 30 days after the beginning of the next session.

## PART 5 – ADMINISTRATION OF THE PROCESS

### Environmental Assessment Office

**58** (1) The Environmental Assessment Office is continued as an office of the government under the direction of the minister.

(2) The purpose of the Environmental Assessment Office is to assist the minister in the administration of this Act.

### Appointment of the executive director

**59** (1) The Lieutenant Governor in Council must appoint an individual to be the Executive Director of the Environmental Assessment Office.

(2) The Lieutenant Governor in Council may establish the remuneration and other terms of the appointment of the executive director.

(3) The executive director is an employee as defined in the *Public Service Act*.

### Delegation by executive director

**60** (1) The executive director by conditional or unconditional written authority may delegate any of the powers and duties of the executive director under this Act or under the regulations to any person employed in the Environmental Assessment Office.

(2) A person to whom the executive director, by written authority under subsection (1), delegates powers and duties may exercise the powers and must perform the duties in accordance with the written authority.

### Project registry continued

**61** (1) For the purpose of facilitating public access to records relating to environmental assessments, the project registry is continued in the Environmental Assessment Office, to be administered and maintained by the executive director.

(2) For the convenience of the people of any region the executive director may specify offices in the region at which the public may inspect

(a) the list referred to in section 62 (1) (a),

(b) for selected reviewable projects in that region, the indexes that are kept under section 62 (1) (b) for those reviewable projects, and

(c) for each of those selected reviewable projects, the pertinent records.

**What must be filed and kept at project registry**

**62** (1) The executive director must keep and make available for public inspection at the project registry during normal office hours

(a) a list identifying every reviewable project for which an application for a project approval certificate has been accepted for further review under section 8 by the executive director,

(b) for each reviewable project listed, an index specifying the records filed at the project registry that pertain to that reviewable project, and

(c) for each reviewable project listed, the parts of the records received under this Act by the executive director that

(i) pertain to that reviewable project, and

(ii) under the *Freedom of Information and Protection of Privacy Act*, are available to the public.

(2) Within the prescribed period after receiving each of the following records, the executive director must file a copy of it at the project registry:

(a) any notice delivered under section 8 by the executive director and any application for a project approval certificate accepted under section 8 for review;

(b) any recommendations under section 11 of the public advisory committee;

(c) any request, under section 12, by an applicant for a project review certificate to amend the application;

(d) any notice delivered under section 13 or 18 to a proponent;

(e) any written assessment made under section 14 by the executive director;

(f) any notice inviting comments that is given by the executive director under section 16 or circulated by the executive director under section 17, any comments received by the executive director in response to such a notice and any response of a proponent to the comments;

(g) any referral, under section 19 or 29, of an application to the minister and responsible minister and any recommendations referred to in those sections together with any reasons given for those recommendations;

(h) any project approval certificate issued under section 20, 30 or 34, any decision or referral under section 20 or 30 and any written reasons for the decision;

(i) any draft project report specifications under section 21 and any final project report specifications prepared under section 24;

(j) any project report accepted under section 26 for review, and any notice delivered under that section to a proponent;

(k) any notice under section 27 with reference to concurrent process under other enactments;

(l) any draft terms of reference specified under section 31 (1) for the purpose of a public hearing and any terms of reference in final form prepared under section 32;

(m) any application under section 35 for extension of the deadline specified in a project approval certificate by which the project must be substantially started and any extension of the deadline granted by the minister, under that section;

(n) any direction given under section 40 by the minister and a minister charged with the administration of another enactment, to the executive director, and any terms of reference, report or guidelines under that section;

(o) any direction given under section 41 by the minister and responsible minister, to the executive director and any terms of reference or draft category assessment specifications under that section;

(p) any notice under section 42 or 43 with reference to draft category assessment specifications, any category assessment specifications approved by the Lieutenant Governor in Council under section 45 and any amendments referred to in section 47;

(q) any order of the Lieutenant Governor in Council referred to in the definition in section 1 of "responsible minister" or in section 51(1) (c) or made by the Lieutenant Governor in Council under section 34, 56 (3) or 91, or made by the minister under section 4, 20 (b) (iii), 55, 56 (2), 68, 71, 74, 88, 89, 90 (1) or 93 or made by the executive director under section 13 (1) or 19 (1) (b), and any reasons for any such order;

(r) the evidence received and submissions made in the course of any public hearing under section 51 or 52;

(s) any report and any recommendations of the Environmental Assessment Board under section 33 or 51;

(t) any notice of public hearing given under section 53;

(u) the annual report referred to in section 57;

(v) any invitation to participate in mediation, any referral to mediation and any mediator's report under section 66;

(w) any amendment under section 71 or 75 to a project approval certificate or any new conditions attached to one under section 71;

(x) any recommendations under section 93 and any reasons given for the recommendations;

(y) any compliance agreement made under section 70.

**Discretion as to non-written comments**

**63** (1) The executive director is not obligated to accept for the purposes of this Act any comments received in response to a notice given under section 16 or circulated by the executive director under section 17 unless the comments are in written form.

(2) However, at the request of a person or body that wishes to submit comments in response to a notice under section 16 or 17, the executive director may accept non-written comments if they are recorded in a form approved by the executive director.

(3) If the executive director accepts non-written comments in accordance with subsection (2), a requirement of this Act that the executive director file, publish, deliver or otherwise give notice of the comments, as the case may be, is fulfilled by doing so

(a) in the form in which the comments were recorded, or

(b) in a written record that sets out or fairly summarizes the comments.

(4) An approval under subsection (2) may be in general terms or for a particular case.

**Availability of existing information**

**64** If the executive director has information, analysis, plans and other records relating to one or more reviewable projects or types of reviewable projects previously reviewed under this Act and the information, analysis, plans and other records are relevant to the review of another project,

(a) the executive director may make the information, analysis and plans and records available to the proponent of that other project, and

(b) at the proponent's written request may specify any part of the information, analysis, plans and other records as acceptable in fulfillment or partial fulfillment of the obligation of the proponent to provide the types of information set out in sections 7 and 21 to 24, as those obligations pertain to that other project.

**Discretion to assist participants**

**65** (1) In this section, **"review"** means

(a) the review of an application for a project approval certificate, of a matter referred to the board by the minister under section 88, or

(b) the process of the preparation under sections 41 to 44 of category assessment specifications.

(2) If the minister considers it to be necessary or desirable for the purpose of enabling or supporting the participation of one or more persons or organizations, in any stage of a review, the minister may

(a) pay all or part of the actual or anticipated costs of the participation in the review by those persons or organizations, and

(b) provide access to technical expertise.

**Mediation may be authorized**

**66** (1) The board or the executive director may make the services of a mediator available to parties interested in the outcome of an application for a project approval certificate.

(2) If satisfied that mediation will be conducive to the settlement of one or more issues related to the review of the application, the board or the executive director may

(a) invite the proponent, and any parties interested in the outcome of the application, to participate in mediation of an issue or issues,

(b) refer the issue or issues to a mediator for mediation, and

(c) require the mediator to report the results of the mediation to the board or the executive director by a time to be specified in the referral.

## PART 6 – SANCTIONS

**Inspection power**

**67** (1) For any purpose related to the administration or enforcement of this Act or the regulations, a person authorized in writing by the minister may

(a) enter at any reasonable time on property that is the site of a reviewable project, and

(b) inspect any works or activity connected with the reviewable project.

(2) A person who enters on property under subsection (1) must on request provide proof of identity to a person present on the property.

**Minister's order to cease or remedy**

**68** (1) If the minister considers that a reviewable project is not being constructed, operated, modified, dismantled or abandoned or, in the case of an activity that is a reviewable project, carried out, in accordance with a project approval certificate, the minister,

(a) if a project approval certificate for the reviewable project has not been issued or has been issued but does not remain in effect, may order that construction, operation, modification, dismantling or abandonment of the project cease, or that the activity cease, either altogether or to the extent specified by the minister, until the proponent obtains a project approval certificate, or

(b) if a project approval certificate for the reviewable project has been issued and remains in effect, may

(i) order that construction, operation, modification, dismantling or abandonment of the project cease, or that the activity cease, either altogether or to the extent specified by the minister, until the holder of the project approval certificate complies with it, or

(ii) order that the holder of the project approval certificate carry out, within the time to be specified in the order, measures specified by the minister in order to mitigate the effects of noncompliance.

(2) An order under this section may be made to apply generally or to one or more persons named in the order.

**Order for compliance**

**69** (1) If the minister considers that a person is not complying, or has not complied, with an order made under this Act, the minister may apply to the Supreme Court for either or both of the following:

(a) an order directing the person to comply with the order or restraining the person from violating the order;

(b) an order directing the directors and officers of the person to cause the person to comply with or to cease violating the order.

(2) On application by the minister under this section, the Supreme Court may make an order it considers appropriate.

**Compliance agreement**

**70** (1) If the minister considers it appropriate to do so, the minister may give the holder of a project approval certificate an opportunity to make a written compliance agreement with the minister, by which the holder undertakes to comply with the project approval certificate within the time and on the terms to be specified in the agreement.

(2) Despite a compliance agreement, the minister may make an order referred to in section 68 in respect of the holder of a project approval certificate or another person that is the subject of an order under section 68

(a) on matters not covered by the agreement,

(b) when the agreement is not complied with, on matters covered in the agreement, and

(c) on matters provided for in the agreement if all the material facts related to those matters were not known by the minister at the time of the agreement.

(3) On the application of a holder of a project approval certificate that has a compliance agreement with the minister, the minister may approve the alteration of the agreement.

**Suspension, cancellation and amendment of certificates**

**71** (1) For any of the reasons listed in subsection (2) the minister by order may

(a) suspend all or some of the rights of the proponent under a project approval certificate or cancel a project approval certificate, or

(b) amend or attach new conditions to a project approval certificate.

(2) The reasons referred to in subsection (1) are as follows:

(a) the holder of the project approval certificate does not substantially start the project by the deadline specified in the certificate;

(b) the minister has reasonable and probable grounds to believe that the holder of the certificate is in default of

(i) an order of the Supreme Court made under section 69 (2), 80 or 82,

(ii) an order of the minister made under section 68 or 70, or

(iii) one or more requirements of the certificate;

(c) the holder of the certificate has been convicted of an offence under this Act;

(d) the holder of the certificate is in default of an order made under section 55 that the proponent pay costs of the board.

(3) An amendment made or condition attached to a project approval certificate under this section is conclusively deemed to be part of the certificate, whether contained in, attached to it or contained in a separate document.

### Notice requirements

**72** (1) Except in a situation that the minister considers to be an emergency that warrants immediate action without notice to the holder or former holder of a project approval certificate, the minister must not make an order under section 71 without first giving the holder or former holder an opportunity to be heard.

(2) Immediately after the minister makes an order under section 71 the executive director must deliver a copy of the order to the holder of the project approval certificate or the former holder, as the case may be.

(3) Not later than 15 days after delivery, under subsection (2), of a copy of the order, the holder or former holder of the project approval certificate, by written notice delivered to the minister, may, if not given an opportunity to be heard before the making of the order, require an opportunity to be heard by the minister.

### Opportunity to be heard

**73** As soon as practicable after receiving written notice in accordance with section 72 (3), the minister must give the holder or former holder who delivered the notice an opportunity to be heard.

### Reinstatement of certificate

**74** The minister by order may

(a) cancel a condition, attached under section 71, of a project approval certificate, or

(b) subject to any conditions the minister considers appropriate, reinstate a project approval certificate that under section 71 has been suspended or cancelled.

### Minor amendments to project approval certificate

**75** Section 71 does not prevent amendments to a project approval certificate that, in the opinion of the minister are minor amendments and that are agreed to by the holder of the certificate and the minister.

### Offences and penalties

**76** (1) Section 5 of the *Offence Act* does not apply to this Act or to the regulations.

(2) A person commits an offence who

- (a) contravenes section 5 (1) or (2),
- (b) does not comply with
  - (i) a project approval certificate, or
  - (ii) an order referred to in section 68, or
- (c) makes a statement in a record filed or provided under this Act that is false or misleading with respect to a material fact or that omits to state a material fact, the omission of which makes the statement false or misleading.

(3) A person does not commit an offence under subsection (2) (c) if at the time of the statement the person did not know that the statement was false or misleading and, exercising due diligence, could not have known that the statement was false or misleading.

(4) If a corporation commits an offence under this Act, an employee, officer, director or agent of the corporation who authorizes, permits or acquiesces in the offence commits the same offence whether or not the corporation is convicted of the offence.

### Effect of voluntary compliance agreement

**77** A project approval certificate holder that

- (a) enters into a voluntary compliance agreement approved, under section 70, by the minister, and
- (b) complies fully with the agreement

does not commit an offence under section 76 (2) in respect of a contravention of this Act that the agreement is intended to rectify.

### Penalties

**78** A person who commits any offence under section 76 (2) is liable,

- (a) in the case of a corporation on a first conviction, to a fine of not more than $100 000 and, on each subsequent conviction, to a fine of not more than $200 000, and
- (b) in the case of an individual
  - (i) on a first conviction, to a fine of not more than $100 000 or to imprisonment for not more than 6 months or to both, and
  - (ii) on each subsequent conviction, to a fine of not more than $200 000 or to imprisonment for not more than 12 months or to both.

**Remedies preserved**

**79** A proceeding, conviction or penalty for an offence under this Act does not relieve a person from any other liability.

**Court order to comply**

**80** If a person is convicted of an offence under this Act or the regulations, then, in addition to any punishment the court may impose, the court may order the person to comply with the provisions of this Act.

**Limitation period**

**81** A proceeding for an offence under this Act or the regulations may not be commenced in any court more than 3 years after the facts on which the proceedings are based first come to the knowledge of the minister.

**Restitution**

**82** If a person is convicted of an offence under this Act, then, in addition to any other penalty, the court may order the person convicted to pay compensation or make restitution.

## PART 7 – GENERAL PROVISIONS

### Division 1 – General

**Delegation**

**83** The minister may in writing delegate to any employee of the government or of a government agency any power or duty conferred or imposed on the minister under this Act, other than under section 4, 20, 30, 55, 71 or 74.

**Consultants and mediators**

**84** The board, for its purposes, and the executive director, for the other purposes under this Act, may retain consultants and mediators and set their remuneration and the terms of their retainers.

**Immunity for acts or omissions in good faith**

**85** (1) An action may not be brought against the minister, the responsible minister, the executive director, a member of the board or a person who is subject to the direction of the minister, the responsible minister or the executive director because of anything done or omitted in good faith

(a) in the performance or purported performance of any duty under this Act or the regulations, or

(b) in the exercise or purported exercise of any power under this Act or the regulations.

(2) Subsection (1) does not absolve the government from vicarious liability for an act or omission for which it would be vicariously liable if this section were not in force.

## Division 2 – Agreements with Other Canadian Jurisdictions

**Agreements**

**86** (1) For one or more of the purposes set out in subsection (2), the minister, with respect to a reviewable project that is governed by the laws of British Columbia and the laws

(a) of Canada,

(b) of one or more other provinces or territories of Canada, or

(c) of Canada and one or more other provinces or territories,

as the case may be, may contract with the other jurisdiction or jurisdictions under a contract that provides for an assessment of the reviewable project that, in the minister's opinion, is at least equivalent to the assessment that would otherwise be required under this Act.

(2) The purposes referred to in subsection (1) are as follows:

(a) to determine what aspects of the reviewable project are governed by the laws of each jurisdiction that is a party to the agreement;

(b) to provide for the carrying out jointly by the jurisdictions that are parties to the agreement of

(i) all or any part of the process of the review, for the purposes of this Act, of the potential effects of the reviewable project, and

(ii) the provisions in any enactment of the other jurisdiction or jurisdictions that operate for substantially the same purposes as the relevant provisions of this Act;

(c) to provide for the adoption by one or more of the jurisdictions that are parties to the agreement, for the purposes of their environmental assessment requirements, of

(i) all or part of the environmental assessment process of the other jurisdiction or jurisdictions, and

(ii) reports and similar documents prepared by or under the authority of the laws of the other jurisdiction as part of the environmental assessment process of the other jurisdiction or jurisdictions.

(3) The minister may contract on behalf of British Columbia with Canada or any other province or a territory for the purpose of the coordination of the administration of the environmental assessment processes under this Act and the relevant laws of the other contracting jurisdiction or jurisdictions.

### Variations to accommodate agreements with other jurisdictions

**87** Effective on the date of an agreement made in accordance with section 86, and for as long as the agreement remains in effect, both this Act and the regulations are by this section deemed to be varied, in their application to or in respect of the reviewable project that is the subject of the agreement, to the extent necessary to accommodate that agreement.

### Agreements with the Nisga'a Nation

**87.1** The minister may enter into agreements for the purposes set out in paragraph 1 of the Environmental Assessment and Protection Chapter of the Nisga'a Final Agreement, as defined in the *Nisga'a Final Agreement Act*.

## Division 3 – Special Administrative Powers

### Review of a matter that is not the subject of an application

**88** The minister by order may

(a) refer to the board any matter that is not the subject of an application for a project approval certificate and that the minister considers relevant to the process of assessing reviewable projects under this Act, and

(b) specify terms of reference for the purpose of the referral.

### Suspension of review pending other inquiries

**89** At any time after acceptance under section 8 of an application for a project approval certificate but before a decision under section 30 about the application, the minister by order may suspend the review of the application until the outcome of an inquiry that

(a) is authorized under the *Inquiry Act* or another Act, and

(b) in the opinion of the minister, is material to the review, under this Act, of the application.

### Extensions of time

**90** (1) The minister may extend by order, with or without conditions, the time limit for doing anything under this Act or the regulations, and may order an extension even if the time limit has expired.

(2) The minister must give written reasons for an order under this section.

### Emergency variations to review process

**91** (1) If the Lieutenant Governor in Council considers that there is or will be an emergency that warrants or will warrant the variation and that the variation is in the public interest, the Lieutenant Governor in Council by order may vary, as the Lieutenant Governor in Council considers necessary to respond to the emergency, one or more provisions of this Act or the regulations, as the provisions apply to or in respect of a specified reviewable project or a specified category of reviewable projects.

(2) The Lieutenant Governor in Council

(a) may attach conditions to an order made under this section,

(b) may categorize reviewable projects for the purpose of an order made under this section, including into categories that may differ from the categories of reviewable projects prescribed under section 92, and

(c) may provide differently in an order under this section for different reviewable projects or for different categories of reviewable projects.

(3) An order under this section is final and binding.

(4) In an order under this section, the Lieutenant Governor in Council must identify the nature of the emergency and give reasons for the order.

## PART 8 – REGULATIONS AND TRANSITION

**Power to make regulations**

92 (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act.*

(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:

(a) for each provision of this Act that refers to a "prescribed period", prescribing the period or prescribing periods that may differ for differing events or circumstances;

(b) prescribing the fees for applications for project approval certificates, the fees to be paid in respect of other matters connected with the administration of this Act and the charges referred to in section 55;

(c) prescribing information for the purposes of section 7 (2);

(d) respecting the form and content of applications for project approval certificates and project reports;

(e) respecting the procedures and the conduct of meetings of project committees;

(f) prescribing additional powers and duties of the executive director or of the board;

(g) prescribing the circumstances and defining "costs" for the purposes of section 55;

(h) prescribing the circumstances and defining "costs" for the purposes of section 65 (1);

(i) prescribing the limits for the purposes of section 65 (2);

(j) for the purpose of section 93 (2), designating particular persons, prescribing classes of persons, designating particular projects and prescribing classes of projects;

(k) defining a word or expression used but not defined in this Act;

(l) providing that a provision of this Act, or of the regulations, does not apply to or in respect of reviewable projects and prescribing circumstances in which or conditions on which the provision is made inapplicable under this paragraph.

(3) A regulation made under subsection (2) (a), (b), (c), (d) or (l) may

(a) be made applicable generally or to a specific category of reviewable project,

(b) categorize reviewable projects for the purpose of the regulation, and

(c) provide differently for different categories of reviewable projects.

**Transitional provisions**

**93** (1) This Act does not apply to any activity that, or any construction, operation, modification, dismantling or abandonment that, immediately before June 30, 1995,

(a) is a type of project for which one or more approvals under other enactments are required,

(b) is the subject of a proposal being made by a person who has all of the required approvals under other enactments, and

(c) is neither a regulated project under the *Utilities Commission Act*, a reviewable mine development under the *Mine Development Assessment Act*, S.B.C. 1990, c. 55, nor a project reviewable under procedures generally known as the major project review process.

(2) This Act does not apply to any activity that, or any construction, operation, modification, dismantling or abandonment that, on June 30, 1995,

(a) is the subject of a proposal that is being made by a person who is designated by regulation or is within a prescribed class of persons, or

(b) is the subject of an existing proposal and is a project that is designated by regulation or is within a prescribed class of projects.

(3) An application or matter must be continued and disposed of under this Act as an application for a project approval certificate if, immediately before June 30, 1995, the application or matter is undergoing review as

(a) a regulated project under the *Utilities Commission Act*,

(b) a reviewable mine development under the *Mine Development Assessment Act*, S.B.C. 1990, c. 55, or

(c) a project reviewable under procedures generally known as the major project review process.

(4) An application or matter must be continued and disposed of under this Act as an application for a project approval certificate if

(a) immediately before June 30, 1995, the application or matter pertains to a project that

(i) is a type of project for which one or more approvals under other enactments are required, and

(ii) is the subject of an existing proposal made by a person who does not have all of the required approvals under other enactments, and

(b) on June 30, 1995, the project is a reviewable project.

(5) The minister with the concurrence of the responsible minister, after first receiving the recommendations of the executive director, may make an order

(a) specifying the step in the review process under this Act to which an application or matter described in subsection (3) or (4) must proceed, or

(b) varying the review process to the extent necessary to accommodate the review under this Act of that application or matter.

(6) The minister with the concurrence of the responsible minister must give reasons for an order made under subsection (5) and may attach conditions to the order.

(7) Records that before June 30, 1995 were filed or submitted

(a) under the *Utilities Commission Act,* the *Mine Development Assessment Act,* S.B.C. 1990, c. 55, or the major project review process, or

(b) in support of an application or matter referred to in subsection (4),

may be accepted by the executive director in full or partial fulfillment of the requirements of this Act.

(8) A certificate, order, approval or decision that, immediately before June 30, 1995 is in effect under the *Utilities Commission Act,* the *Mine Development Assessment Act,* S.B.C. 1990, c. 55, or the major project review process

(a) must be deemed to have been issued under this Act, and

(b) subject to subsection (9), continues in force until it expires or, under this Act, is suspended or cancelled.

(9) An energy operation certificate or energy project certificate under the *Utilities Commission Act,* a mine development certificate or mine operation certificate under the *Mine Development Assessment Act,* S.B.C. 1990, c. 55, or an approval given as part of the major project review process, if the certificate or approval is in effect immediately before June 30, 1995, remains in effect, despite its term or expiry date, for the life of the project in respect of which it was issued, unless it is suspended or canceled under this Act.

***Amendments Not in Force***

## ENVIRONMENTAL ASSESSMENT ACT

RSBC 1996, chapter 119

| Section | Citation |
|---|---|
| *25* | *RS1996 (Supp) -119-1; 1994-35-94.* |

## Legislative History

## ENVIRONMENTAL ASSESSMENT ACT

RSBC 1996, chapter 119

| Section | History |
|---|---|
| 1 | 1994-35-1. |
| 2 | 1994-35-2. |
| 3 | 1994-35-3; 1994-41-242. |
| 4 | 1994-35-4. |
| 5 | 1994-35-5. |
| 6 | 1994-35-6. |
| 7 | 1994-35-7. |
| 8 | 1994-35-8. |
| 9 | 1994-35-9. |
| 10 | 1994-35-10. |
| 11 | 1994-35-11. |
| 12 | 1994-35-12. |
| 13 | 1994-35-13. |
| 14 | 1994-35-14. |
| 15 | 1994-35-15. |
| 16 | 1994-35-16. |
| 17 | 1994-35-17. |
| 18 | 1994-35-18. |
| 19 | 1994-35-19. |
| 20 | 1994-35-20. |
| 21 | 1994-35-21. |
| 22 | 1994-35-22. |
| 23 | 1994-35-23. |
| 24 | 1994-35-24. |
| 25 | 1994-35-25; 1994-41-242.1. |
| 26 | 1994-35-26. |
| 27 | 1994-35-27. |
| 28 | 1994-35-28. |
| 29 | 1994-35-29. |
| 30 | 1994-35-30. |
| 31 | 1994-35-31. |
| 32 | 1994-35-32. |
| 33 | 1994-35-33. |
| 34 | 1994-35-34. |
| 35 | 1994-35-35. |
| 36 | 1994-35-36. |
| 37 | 1994-35-37. |
| 38 | 1994-35-38. |
| 39 | 1994-35-39. |
| 40 | 1994-35-40. |
| 41 | 1994-35-41. |
| 42 | 1994-35-42. |
| 43 | 1994-35-43. |
| 44 | 1994-35-44. |

**Legislative History** — *Continued*

## ENVIRONMENTAL ASSESSMENT ACT

RSBC 1996, chapter 119

| Section | History |
|---|---|
| 45 | 1994-35-45. |
| 46 | 1994-35-46. |
| 47 | 1994-35-47. |
| 48 | 1994-35-48. |
| 49 | 1994-35-49. |
| 50 | 1994-35-50. |
| 51 | 1994-35-51. |
| 52 | 1994-35-52. |
| 53 | 1994-35-53. |
| 54 | 1994-35-54. |
| 55 | 1994-35-55. |
| 56 | 1994-35-56. |
| 57 | 1994-35-57. |
| 58 | 1994-35-58. |
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| 63 | 1994-35-63. |
| 64 | 1994-35-64. |
| 65 | 1994-35-65. |
| 66 | 1994-35-66. |
| 67 | 1994-35-67. |
| 68 | 1994-35-68. |
| 69 | 1994-35-69. |
| 70 | 1994-35-70. |
| 71 | 1994-35-71. |
| 72 | 1994-35-72. |
| 73 | 1994-35-73. |
| 74 | 1994-35-74. |
| 75 | 1994-35-75. |
| 76 | 1994-35-76. |
| 77 | 1994-35-77. |
| 78 | 1994-35-78. |
| 79 | 1994-35-79. |
| 80 | 1994-35-80. |
| 81 | 1994-35-81. |
| 82 | 1994-35-82. |
| 83 | 1994-35-83. |
| 84 | 1994-35-84. |
| 85 | 1994-35-85. |
| 86 | 1994-35-86. |
| 87 | 1994-35-87. |
| 88 | 1994-35-88. |
| 89 | 1994-35-89. |
| 90 | 1994-35-90. |
| 91 | 1994-35-91. |
| 92 | 1994-35-92. |
| 93 | 1994-35-93. |

## EXPLANATORY NOTE

**Amendments Not in Force:** If there are any legislative changes to the Act that are not in force as of December 31, 1996, these are identified in *italics* at the beginning of the historical table. The "Section" column identifies the affected provisions of the Act. The "Citation" column identifies the amending legislation by its citation in the 1996 Statute Revision Supplement.

**Legislative History:** The second part of the table provides a legislative history of each section of the Act between the 1979 Statute Revision and the 1996 Statute Revision. The "Section" column identifies all sections of the Act in force on December 31, 1996. The "History" column for each section begins with the citation of the section immediately before the 1996 Statute Revision. This is followed by a list of citations for the legislation that enacted or amended the section between the 1979 Statute Revision and the 1996 Statute Revision (if a section was repealed and replaced during that period, these last citations begin at the most recent replacement).

Legislative citations have the format of "year-chapter-section".

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# TABLE OF LEGISLATIVE CHANGES
## Updated to Sept. 6, 2000

## ENVIRONMENTAL ASSESSMENT ACT
RSBC1996, chapter 119

### Changes in Force

| Section | Change | Citation | Effective date |
|---|---|---|---|
| 1 | am | 2000-7-191,Sch | 12 Jun 2000 (RA) |
| 3 | am | 1999-11-16 | 1 Apr 2000 (BC Reg 318/99) |
| 22 | am | 1999-2-30 | 11 May 2000 (BC Reg 146/00) |
| 25 | am | RS1996 (Supp)-119-1 | 19 Nov 1998 (BC Reg 405/98) |
| 50 | am | 1999-44-45 | 1 Apr 2000 (BC Reg 66/00) |
| 87.1 | en | 1999-2-31 | 11 May 2000 (BC Reg 146/00) |

**Explanatory Note for Table of Legislative Changes — RS96 Act/Supp**

This Table shows Act provisions or changes enacted
- in the Supplement to the Act published in the 1996 Revision, and
- between January 1, 1997 (the day after the Act was consolidated for the 1996 Revision) and the date to which the Act is now consolidated (shown as "Updated to" on p. 1 of Act).

The Table may have 1 to 3 parts: "Changes by Regulation" or "Order" *(italics)* lists provisions authorizing changes by regulation or order in council, "Changes Not in Force" (*italics*) identifies changes that are not in force, and "Changes in Force" identifies changes that have come into force, as of the Act consolidation date.

The "Section" column identifies sections of the Act affected by changes; sections not changed are not listed. The "Change" column shows the nature of the changes (*see* abbreviations below). The "Citation" column cites the enactments making the changes. The "Into force" column (under "Changes Not in Force") shows how changes are to come into force. The "Effective date" column (under "Changes in Force") indicates when changes have come into force.

Abbreviations that may be used:

am = amended
conseq = consequential
eff = effect(ive)
en = enacted
per = under, pursuant to
RA = Royal Assent
re-en = re-enacted
reg = regulation
rem = remainder
rep = repealed
retro = retroactive
Supp = Supplement

The Users Guide to the looseleaf edition of the B.C. statutes (including the Folio electronic version) provides detailed information about Tables of Legislative Changes.

ENVIRONMENTAL ASSESSMENT OFFICE

# APPENDIX 2

# BC ENVIRONMENTAL ASSESSMENT REVIEWABLE PROJECTS REGULATION

BRITISH
COLUMBIA

B.C. Reg. 276/95
O.C. 735/95

Deposited June 29, 1995
effective June 30, 1995

*Environmental Assessment Act*

# ENVIRONMENTAL ASSESSMENT REVIEWABLE PROJECTS REGULATION

[includes amendments up to B.C. Reg. 225/99]

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SCHEDULES 1 TO 3

**Interpretation**

**1** (1) In this regulation:

**"Act"** means the *Environmental Assessment Act;*

**"CWF"** means the contaminant weighting factor for a permitted contaminant as set out in Schedule 1;

**"existing facility"** means a facility that is operating, or a facility for which construction has been substantially completed but which is not operational;

**"foreshore"** means land in tidal areas or non-tidal areas that, as a result of the rise and fall of the sea or water in an estuary or stream between the natural boundary and the ordinary low water mark, is periodically inundated by salt water or fresh water and periodically exposed;

**"natural boundary"** has the same meaning as in the *Land Act;*

**"new facility"** means a facility that is not an existing facility;

**"SIC code"** means the code assigned under an industry classification called the Standard Industrial Classification, 1980, Fourth Printing, March, 1989, as published by the Minister of Supply and Services (Canada);

**"stream"** has the same meaning as in the *Water Act;*

**"submerged land"** means land that lies below the ordinary low water mark of a stream, marine coastline or estuary, and which is normally inundated by salt water or fresh water;

**"total waste discharge"** means the total permitted amount of solid, liquid or gaseous waste material introduced into the environment from a facility, determined as the sum of the products obtained by multiplying the CWF for each permitted contaminant by the permitted discharge rate, in tonnes, for that contaminant;

**"waste discharge"** means the amount of a solid, liquid or gaseous waste material introduced into the environment from a facility.

(2) The review of the construction of a new facility includes the review of the construction, operation, dismantling and abandonment phases of the new facility unless otherwise specified.

(3) The review of the modification of an existing facility includes the review of the construction, operation, dismantling and abandonment phases of the modified portion of the existing facility unless otherwise specified.

(4) If a facility is a reviewable project within more than one SIC code or category of reviewable projects under this regulation, the facility constitutes a reviewable project with respect to only one SIC code or category of reviewable project as determined by the executive director.

## PART 1 – INDUSTRIAL PROJECTS

### Organic and inorganic chemical industry

**2** (1) The construction of a new facility constitutes a reviewable project for the purposes of the Act if

(a) the facility

(i) is within one of the following SIC codes:

(A) SIC code 3711 – Industrial Inorganic Chemical Industries not elsewhere classified;

(B) SIC code 3712 – Industrial Organic Chemical Industries not elsewhere classified;

(C) SIC code 3721 – Chemical Fertilizer and Fertilizer Materials Industry;

(D) SIC code 3722 – Mixed Fertilizer Industry;

(E) SIC code 3729 – Other Agricultural Chemical Industries;

(F) SIC code 3731 – Plastic and Synthetic Resin Industry;

(G) SIC code 3751 – Paint and Varnish Industry;

(H) SIC code 3799 – Other Chemical Products Industries not elsewhere classified, and

(ii) has, or when the construction phase is completed will have, a production capacity of 100 000 tonnes or more per year, or

(b) the facility

(i) produces materials classified under the *Transportation of Dangerous Goods Act* (Canada) as "Explosives", "Flammable Solids", "Corrosive Gases", "Poisonous Substances" or "Oxidizing Substances and Organic Peroxides", and

(ii) has, or when the construction phase is completed will have, a production capacity of 5 000 tonnes or more per year.

(2) The modification of an existing facility constitutes a reviewable project for the purposes of the Act if

(a) the facility meets the criteria described in subsection (1) (a) or (b) for a new facility, and

(b) the modification results in, or when construction of the modification is completed will result in, one of the following:

(i) Repealed. [B.C. Reg. 399/98, s. 1 (a).]

(ii) an increase of 30% or more in the total waste discharge from the facility;

(iii) an increase in production capacity that is at least 35% but less than 50% of the production capacity of the facility before the proposed modification, unless there is a corresponding decrease of 10% or more in the total waste discharge from the facility, in which case the modification does not constitute a reviewable project;

(iv) an increase in production capacity that is 50% or more of the production capacity of the facility before the proposed modification.

(3) The modification of an existing facility constitutes a reviewable project for the purposes of the Act if

(a) the facility meets the criteria described in subsection (1) (a) (i) for a new facility,

(b) the facility has a production capacity of less than 100 000 tonnes per year, and

(c) the modification results in, or when construction of the modification is completed will result in,

(i) an increase in production capacity that is 35% or more of the production capacity of the facility before the proposed modification, and

(ii) a production capacity of 100 000 tonnes or more per year.

(4) The modification of an existing facility constitutes a reviewable project for the purposes of the Act if

(a) the facility meets the criteria described in subsection (1) (b) (i) for a new facility,

(b) the facility has a production capacity of less than 5 000 tonnes per year, and

(c) the modification results in, or when construction of the modification is completed will result in,

(i) an increase in production capacity that is 35% or more of the production capacity of the facility before the proposed modification, and

(ii) a production capacity of 5 000 tonnes or more per year.

(5) Subsections (3) and (4) do not apply if the modification results in, or when construction of the modification is completed will result in, a corresponding decrease of 10% or more in the total waste discharge from the facility.

[am. B.C. Regs. 336/96, s. 1; 399/98, s. 1.]

**Primary metals industries**

3 (1) The construction of a new facility constitutes a reviewable project for the purposes of the Act if the facility is within one of the following SIC codes:

(a) SIC code 2911 – Ferro-alloys Industry;

(b) SIC code 2919 – Other Primary Steel Industries;

(c) SIC code 2951 – Primary Production of Aluminum Industry;

(d) SIC code 2959 – Other Primary Smelting and Refining of Non-ferrous Metal Industries.

(2) The modification of an existing facility constitutes a reviewable project for the purposes of the Act if

(a) the facility meets the criteria described in subsection (1) for a new facility, and

(b) the modification results in, or when construction of the modification is completed will result in, one of the following:

(i) Repealed. [B.C. Reg. 399/98, s. 2 (a).]

(ii) an increase of 30% or more in the total waste discharge from the facility;

(iii) an increase in production capacity that is at least 35% but less than 50% of the production capacity of the facility before the proposed modification, unless there is a corresponding decrease of 10% or more in the total waste discharge from the facility, in which case the modification does not constitute a reviewable project;

[am. B.C. Reg. 399/98, s. 2.]

**Non-metallic mineral products industries – cement, glass and lime**

**4** (1) The construction of a new facility constitutes a reviewable project for the purposes of the Act if

(a) the facility is within one of the following SIC codes:

(i) SIC code 3521 – Hydraulic Cement Industry;

(ii) SIC code 3561 – Primary Glass and Glass Containers Industry;

(iii) SIC code 3581 – Lime Industry, and

(b) the facility has, or when the construction phase is completed will have, a production capacity of 100 000 tonnes or more per year.

(2) The modification of an existing facility constitutes a reviewable project for the purposes of the Act if

(a) the facility meets the criteria described in subsection (1) for a new facility, and

(b) the modification results in, or when construction of the modification is completed will result in, one of the following:

(i) Repealed. [B.C. Reg. 399/98, s. 3 (a).]

(ii) an increase of 30% or more in the total waste discharge from the facility;

(iii) an increase in production capacity that is at least 35% but less than 50% of the production capacity of the facility before the proposed modification, unless there is a corresponding decrease of 10% or more in the total waste discharge from the facility, in which case the modification does not constitute a reviewable project;

(iv) an increase in production capacity that is 50% or more of the production capacity of the facility before the proposed modification.

(3) The modification of an existing facility constitutes a reviewable project for the purposes of the Act if

(a) the facility meets the criteria described in subsection (1) (a) for a new facility,

(b) the facility has a production capacity of less than 100 000 tonnes per year, and

(c) the modification results in, or when construction of the modification is completed will result in,

(i) an increase in production capacity that is 35% or more of the production capacity of the facility before the proposed modification, and

(ii) a production capacity of 100 000 tonnes or more per year.

(4) Subsection (3) does not apply if the modification results in, or when construction of the modification is completed will result in, a corresponding decrease of 10% or more in the total waste discharge from the facility.

[am. B.C. Reg. 399/98, s. 3.]

**Non-metallic mineral products industries – asbestos**

**5** (1) The construction of a new facility constitutes a reviewable project for the purposes of the Act if the facility is within SIC code 3592 – Asbestos Products Industry.

(2) The modification of an existing facility constitutes a reviewable project for the purposes of the Act if

(a) the facility meets the criteria described in subsection (1) for a new facility, and

(b) the modification results in, or when construction of the modification is completed will result in, one of the following:

(i) Repealed. [B.C. Reg. 399/98, s. 4 (a).]

(ii) an increase of 30% or more in the total waste discharge from the facility;

(iii) an increase in production capacity that is at least 35% but less than 50% of the production capacity of the facility before the proposed modification, unless there is a corresponding decrease of 10% or more in the total waste discharge from the facility, in which case the modification does not constitute a reviewable project;

(iv) an increase in production capacity that is 50% or more of the production capacity of the facility before the proposed modification.

[am. B.C. Reg. 399/98, s. 4.]

**Forest products industries – pulp, paper and paperboard**

**6** (1) In this section:

**"integrated paper or paperboard manufacturing facility"** means a plant at which pulp production occurs as part of the process of paper or paperboard production;

**"non-integrated paper or paperboard manufacturing facility"** means a plant at which pulp production does not occur as part of the process of paper or paperboard production.

(2) The construction of a new facility constitutes a reviewable project for the purposes of the Act if

(a) the facility is within one of the following SIC codes:

(i) SIC code 2711 – Pulp Industry;

(ii) SIC code 2712 – Newsprint Industry;

(iii) SIC code 2713 – Paperboard Industry;

(iv) SIC code 2719 – Other Paper Industries, and

(b) the facility is

(i) a pulp manufacturing facility,

(ii) an integrated paper or paperboard manufacturing facility, or

(iii) a non-integrated paper or paperboard manufacturing facility which has, or when the construction phase is completed will have, a production capacity of 250 000 tonnes or more per year.

(3) The modification of an existing facility constitutes a reviewable project for the purposes of the Act if

(a) the facility meets the criteria described in subsection (2) (a) and (b) for a new facility, and

(b) the modification results in, or when construction of the modification is completed will result in, one of the following:

(i) in the case of an existing non-integrated paper or paperboard manufacturing facility, the creation at the existing facility of a new pulp production capability;

(ii) Repealed. [B.C. Reg. 399/98, s. 5 (a).]

(iii) an increase of 30% or more in the total waste discharge from the facility associated with modification of the pulp production capability of the facility;

(iv) an increase in pulp production capacity that is at least 35% but less than 50% of the pulp production capacity of the facility before the proposed modification, unless there is a corresponding decrease of 10% or more in the total waste discharge from the facility, in which case the modification does not constitute a reviewable project;

(v) an increase in pulp production capacity that is 50% or more of the pulp production capacity of the facility before the proposed modification.

(4) The modification of an existing facility constitutes a reviewable project for the purposes of the Act if

(a) the facility meets the criteria described in subsection (2) (a) and (b) for a new facility, and

(b) the modification results in, or when construction of the modification is completed will result in,

(i) in the case of a pulp manufacturing facility, the creation at the existing facility of a new paper or paperboard manufacturing capability with a production capacity of 250 000 tonnes or more per year of paper or paperboard, or

(ii) if a paper or paperboard manufacturing capability already exists, a paper or paperboard production capacity that is 250 000 tonnes or more per year greater than the paper or paperboard production capacity of the facility before the modification.

[am. B.C. Reg. 399/98, s. 5.]

**Forest products industry – de-inking**

**7** (1) The construction of a new facility for the de-inking of paper constitutes a reviewable project for the purposes of the Act.

(2) The modification of an existing facility for the de-inking of paper constitutes a reviewable project for the purposes of the Act if the modification results in, or when construction of the modification is completed will result in, an increase of 30% or more in the total waste discharge from the facility.

[am. B.C. Reg. 399/98, s. 6.]

**Forest products industries – wood preservation**

**8** (1) The construction of a new facility constitutes a reviewable project for the purposes of the Act if

(a) the facility is within SIC code 2591 – Wood Preservation Industry, and

(b) the facility has, or when the construction phase is completed will have, a production capacity of 25 000 $m^3$ or more per year.

(2) The modification of an existing facility constitutes a reviewable project for the purposes of the Act if

(a) the facility meets the criteria described in subsection (1) for a new facility, and

(b) the modification results in, or when construction of the modification is completed will result in, one of the following:

(i) Repealed. [B.C. Reg. 399/98, s. 7 (a).]

(ii) an increase of 30% or more in the total waste discharge from the facility;

(iii) an increase in production capacity that is at least 35% but less than 50% of the production capacity of the facility before the proposed modification, unless there is a corresponding decrease of 10% or more in the total waste discharge from the facility, in which case the modification does not constitute a reviewable project;

(iv) an increase in production capacity that is 50% or more of the production capacity of the facility before the proposed modification.

(3) The modification of an existing facility constitutes a reviewable project for the purposes of the Act if

(a) the facility meets the criteria described in subsection (1) (a) for a new facility,

(b) the facility has a production capacity of less than 25 000 $m^3$ per year, and

(c) the modification results in, or when construction of the modification is completed will result in,

(i) an increase in production capacity that is 35% or more of the production capacity of the facility before the proposed modification, and

(ii) a production capacity of 25 000 $m^3$ or more per year.

(4) Subsection (3) does not apply if the modification results in, or when construction of the modification is completed will result in, a corresponding decrease of 10% or more in the total waste discharge from the facility.

[am. B.C. Reg. 399/98, s. 7.]

**Forest products industries – building board**

**9** (1) The construction of a new facility constitutes a reviewable project for the purposes of the Act if

(a) the facility is within SIC code 2714 – Building Board Industry, unless the facility produces medium-density fibreboard, and

(b) the facility has, or when the construction phase is completed will have, a production capacity of 100 000 tonnes or more per year.

(2) The modification of an existing facility constitutes a reviewable project for the purposes of the Act if

(a) the facility meets the criteria described in subsection (1) for a new facility, and

(b) the modification results in, or when construction of the modification is completed will result in, one of the following:

(i) Repealed. [B.C. Reg. 399/98, s. 8 (a).]

(ii) an increase of 30% or more in the total waste discharge from the facility;

(iii) an increase in production capacity that is at least 35% but less than 50% of the production capacity of the facility before the proposed modification, unless there is a corresponding decrease of 10% or more in the total waste discharge from the facility, in which case the modification does not constitute a reviewable project;

(iv) an increase in production capacity that is 50% or more of the production capacity of the facility before the proposed modification.

(3) The modification of an existing facility constitutes a reviewable project for the purposes of the Act if

(a) the facility meets the criteria described in subsection (1) (a) for a new facility,

(b) the facility has a production capacity of less than 100 000 tonnes per year, and

(c) the modification results in, or when construction of the modification is completed will result in,

(i) an increase in production capacity that is 35% or more of the production capacity of the facility before the proposed modification, and

(ii) a production capacity of 100 000 tonnes or more per year.

(4) Subsection (3) does not apply if the modification results in, or when construction of the modification is completed will result in, a corresponding decrease of 10% or more in the total waste discharge from the facility.

[am. B.C. Reg. 399/98, s. 8.]

**Forest products industries – sawmills**

**10** (1) The construction of a new facility constitutes a reviewable project for the purposes of the Act if

(a) the facility is within SIC code 2512 – Sawmill and Planing Mill Products Industry (except shingles and shakes), and

(b) the facility has, or when the construction phase is completed will have, a production capacity of 750 000 board feet or more per day.

(2) The modification of an existing facility constitutes a reviewable project for the purposes of the Act if

(a) the facility meets the criteria described in subsection (1) for a new facility, and

(b) the modification results in, or when construction of the modification is completed will result in, one of the following:

(i) Repealed. [B.C. Reg. 399/98, s. 9 (a).]

(ii) an increase of 30% or more in the total waste discharge from the facility;

(iii) an increase in production capacity that is at least 35% but less than 50% of the production capacity of the facility before the proposed modification, unless there is a corresponding decrease of 10% or more in the total waste discharge from the facility, in which case the modification does not constitute a reviewable project;

(iv) an increase in production capacity that is 50% or more of the production capacity of the facility before the proposed modification.

(3) The modification of an existing facility constitutes a reviewable project for the purposes of the Act if

(a) the facility meets the criteria described in subsection (1) (a) for a new facility,

(b) the facility has a production capacity of less than 750 000 board feet per day, and

(c) the modification results in, or when construction of the modification is completed will result in,

(i) an increase in production capacity that is 35% or more of the production capacity of the facility before the proposed modification, and

(ii) a production capacity of 750 000 board feet or more per day.

(4) Subsection (3) does not apply if the modification results in, or when construction of the modification is completed will result in, a corresponding decrease of 10% or more in the total waste discharge from the facility.

[am. B.C. Regs. 336/96, s. 2; 399/98, s. 9.]

**Forest products industries – veneer and plywood**

**11** (1) The construction of a new facility constitutes a reviewable project for the purposes of the Act if

(a) the facility is within one of the following SIC codes:

(i) SIC code 2521 – Hardwood Veneer and Plywood Industry;

(ii) SIC code 2522 – Softwood Veneer and Plywood Industry, and

(b) the facility has, or when the construction phase is completed will have, a production capacity of 170 000 $m^3$ or more per year, unless it is a veneer plant which, when the construction is completed, will have a production capacity of 250 000 $m^3$ or more per year.

(2) The modification of an existing facility constitutes a reviewable project for the purposes of the Act if

(a) the facility meets the criteria described in subsection (1) for a new facility, and

(b) the modification results in, or when construction of the modification is completed will result in, one of the following:

(i) Repealed. [B.C. Reg. 399/98, s. 10 (b).]

(ii) an increase of 30% or more in the total waste discharge from the facility;

(iii) an increase in production capacity that is at least 35% but less than 50% of the production capacity of the facility before the proposed modification, unless there is a corresponding decrease of 10% or more in the total waste discharge from the facility, in which case the modification does not constitute a reviewable project;

(iv) an increase in production capacity that is 50% or more of the production capacity of the facility before the proposed modification.

(3) The modification of an existing facility constitutes a reviewable project for the purposes of the Act if

(a) the facility meets the criteria described in subsection (1) (a) for a new facility,

(b) the facility has a production capacity of less than 170 000 $m^3$ per year or less than 250 000 $m^3$ per year for a veneer plant, and

(c) the modification results in, or when construction of the modification is completed will result in,

(i) an increase in production capacity that is 35% or more of the production capacity of the facility before the proposed modification, and

(ii) a production capacity of 170 000 $m^3$ or more per year or 250 000 $m^3$ or more per year for a veneer plant.

(4) Subsection (3) does not apply if the modification results in, or when construction of the modification is completed will result in, a corresponding decrease of 10% or more in the total waste discharge from the facility.

[am. B.C. Reg. 399/98, s. 10.]

**Forest products industries – particle board, wafer board and medium-density fibreboard**

12 (1) The construction of a new facility constitutes a reviewable project for the purposes of the Act if

(a) the facility

(i) is within one of the following SIC codes:

(A) SIC code 2592 – Particle Board Industry;

(B) SIC code 2593 – Wafer Board Industry, or

(ii) produces, or when the construction phase is completed will produce, medium-density fibreboard, and

(b) the facility has, or when the construction phase is completed will have, a production capacity of 150 000 $m^3$ or more per year.

(2) The modification of an existing facility constitutes a reviewable project for the purposes of the Act if

(a) the facility meets the criteria described in subsection (1) for a new facility, and

(b) the modification results in, or when construction of the modification is completed will result in, one of the following:

(i) Repealed. [B.C. Reg. 399/98, s. 11 (a).]

(ii) an increase of 30% or more in the total waste discharge from the facility;

(iii) an increase in production capacity that is at least 35% but less than 50% of the production capacity of the facility before the proposed modification, unless there is a corresponding decrease of 10% or more in the total waste discharge from the facility, in which case the modification does not constitute a reviewable project;

(iv) an increase in production capacity that is 50% or more of the production capacity of the facility before the proposed modification.

(3) The modification of an existing facility constitutes a reviewable project for the purposes of the Act if

(a) the facility meets the criteria described in subsection (1) (a) for a new facility,

(b) the facility has a production capacity of less than 150 000 $m^3$ per year, and

(c) the modification results in, or when construction of the modification is completed will result in,

(i) an increase in production capacity that is 35% or more of the production capacity of the facility before the proposed modification, and

(ii) a production capacity of 150 000 $m^3$ or more per year.

(4) Subsection (3) does not apply if the modification results in, or when construction of the modification is completed will result in, a corresponding decrease of 10% or more in the total waste discharge from the facility.

[am. B.C. Reg. 399/98, s. 11.]

**Pharmaceutical products**

**13** (1) The construction of a new facility constitutes a reviewable project for the purposes of the Act if

(a) the facility is within SIC code 3741 – Pharmaceutical and Medicine Industry, and

(b) the facility has, or when the construction phase is completed will have, a net production capacity of

(i) 50 tonnes or more per year of biopharmaceutical products, or

(ii) 200 tonnes or more per year of non-biopharmaceutical products.

(2) The modification of an existing facility constitutes a reviewable project for the purposes of the Act if

(a) the facility meets the criteria described in subsection (1) for a new facility, and

(b) the modification results in, or when construction of the modification is completed will result in, one of the following:

(i) Repealed. [B.C. Reg. 399/98, s. 12 (a).]

(ii) an increase of 30% or more in the total waste discharge from the facility;

(iii) an increase in net production capacity that is at least 35% but less than 50% of the net production capacity of the facility before the proposed modification, unless there is a corresponding decrease of 10% or more in the total waste discharge from the facility, in which case the modification does not constitute a reviewable project;

(iv) an increase in net production capacity that is 50% or more of the net production capacity of the facility before the proposed modification.

(3) The modification of an existing facility constitutes a reviewable project for the purposes of the Act if

(a) the facility meets the criteria described in subsection (1) (a) for a new facility,

(b) the facility has a net production capacity of

(i) less than 50 tonnes per year of biopharmaceutical products, or

(ii) less than 200 tonnes per year of non-biopharmaceutical products, and

(c) the modification results in, or when construction of the modification is completed will result in,

(i) an increase in net production capacity that is 35% or more of the production capacity of the facility before the proposed modification, and

(ii) a net production capacity of

(A) 50 tonnes or more per year of biopharmaceutical products, or

(B) 200 tonnes or more per year of non-biopharmaceutical products.

(4) Subsection (3) does not apply if the modification results in, or when construction of the modification is completed will result in, a corresponding decrease of 10% or more in the total waste discharge from the facility.

[am. B.C. Reg. 399/98, s. 12.]

**Man-made fibre production and contract textile dyeing**

**14** (1) The construction of a new facility constitutes a reviewable project for the purposes of the Act if

(a) the facility is within one of the following SIC codes:

(i) SIC code 1811 – Man-made Fibre and Filament Yarn Industry;

(ii) SIC code 1992 – Contract Textile Dyeing and Finishing Industry, and

(b) the facility has, or when the construction phase is completed will have, a net production capacity of 15 000 tonnes or more per year.

(2) The modification of an existing facility constitutes a reviewable project for the purposes of the Act if

(a) the facility meets the criteria described in subsection (1) for a new facility, and

(b) the modification results in, or when construction of the modification is completed will result in, one of the following:

(i) Repealed. [B.C. Reg. 399/98, s. 13 (a).]

(ii) an increase of 30% or more in the total waste discharge from the facility;

(iii) an increase in net production capacity that is at least 35% but less than 50% of the net production capacity of the facility before the proposed modification, unless there is a corresponding decrease of 10% or more in the total waste discharge from the facility, in which case the modification does not constitute a reviewable project;

(iv) an increase in net production capacity that is 50% or more of the net production capacity of the facility before the proposed modification.

(3) The modification of an existing facility constitutes a reviewable project for the purposes of the Act if

(a) the facility meets the criteria described in subsection (1) (a) for a new facility,

(b) the facility has a net production capacity of less than 15 000 tonnes per year, and

(c) the modification results in, or when construction of the modification is completed will result in,

(i) an increase in net production capacity that is 35% or more of the production capacity of the facility before the proposed modification, and

(ii) a net production capacity of 15 000 tonnes or more per year.

(4) Subsection (3) does not apply if the modification results in, or when construction of the modification is completed will result in, a corresponding decrease of 10% or more in the total waste discharge from the facility.

[am. B.C. Reg. 399/98, s. 13.]

### Tire and tube industries

**15** (1) The construction of a new facility constitutes a reviewable project for the purpose of the Act if the facility is within SIC code 1511 – Tire and Tube Industry.

(2) The modification of an existing facility constitutes a reviewable project for the purposes of the Act if

(a) the facility meets the criteria described in subsection (1) for a new facility, and

(b) the modification results in, or when construction of the modification is completed will result in, one of the following:

(i) Repealed. [B.C. Reg. 399/98, s. 14 (a).]

(ii) an increase of 30% or more in the total waste discharge from the facility;

(iii) an increase in production capacity that is at least 35% but less than 50% of the production capacity of the facility before the proposed modification, unless there is a corresponding decrease of 10% or more in the total waste discharge from the facility, in which case the modification does not constitute a reviewable project;

(iv) an increase in production capacity that is 50% or more of the production capacity of the facility before the proposed modification.

[am. B.C. Reg. 399/98, s. 14.]

**Leather tanneries**

**16** (1) The construction of a new facility constitutes a reviewable project for the purposes of the Act if

(a) the facility is within SIC code 1711 – Leather Tanneries, and

(b) the facility has, or when the construction phase is completed will have, a production capacity of 500 000 $m^2$ or more per year.

(2) The modification of an existing facility constitutes a reviewable project for the purposes of the Act if

(a) the facility meets the criteria described in subsection (1) for a new facility, and

(b) the modification results in, or when construction of the modification is completed will result in, one of the following:

(i) Repealed. [B.C. Reg. 399/98, s. 15 (a).]

(ii) an increase of 30% or more in the total waste discharge from the facility;

(iii) an increase in production capacity that is at least 35% but less than 50% of the production capacity of the facility before the proposed modification, unless there is a corresponding decrease of 10% or more in the total waste discharge from the facility, in which case the modification does not constitute a reviewable project;

(iv) an increase in production capacity that is 50% or more of the production capacity of the facility before the proposed modification.

(3) The modification of an existing facility constitutes a reviewable project for the purposes of the Act if

(a) the facility meets the criteria described in subsection (1) (a) for a new facility,

(b) the facility has a production capacity of less than 500 000 $m^2$ per year, and

(c) the modification results in, or when construction of the modification is completed will result in,

(i) an increase in production capacity that is 35% or more of the production capacity of the facility before the proposed modification, and

(ii) a production capacity of 500 000 $m^2$ or more per year.

(4) Subsection (3) does not apply if the modification results in, or when construction of the modification is completed will result in, a corresponding decrease of 10% or more in the total waste discharge from the facility.

[am. B.C. Reg. 399/98, s. 15.]

**Lead-acid batteries**

**17** (1) The construction of a new facility constitutes a reviewable project for the purposes of the Act if the facility is a lead-acid battery manufacturing plant.

(2) The modification of an existing facility constitutes a reviewable project for the purposes of the Act if

(a) the facility meets the criteria described in subsection (1) for a new facility, and

(b) the modification results in, or when construction of the modification is completed will result in, one of the following:

(i) Repealed. [B.C. Reg. 399/98, s. 16 (a).]

(ii) an increase of 30% or more in the total waste discharge from the facility;

(iii) an increase in production capacity that is at least 35% but less than 50% of the production capacity of the facility before the proposed modification, unless there is a corresponding decrease of 10% or more in the total waste discharge from the facility, in which case the modification does not constitute a reviewable project;

(iv) an increase in production capacity that is 50% or more of the production capacity of the facility before the proposed modification.

[am. B.C. Reg. 399/98, s. 16.]

## PART 2 – MINE PROJECTS

**Definitions**

**18** In this Part:

**"clean coal"** means coal which has been processed in a coal preparation plant;

**"industrial mineral"** mean those substances listed in Schedule 3;

**"mine"** has the same meaning as in the *Mines Act;*

**"mineral mine"** means a mine at which a mineral as defined in the *Mineral Tenure Act* is being or could be mined, but does not include a mine at which the substances listed in Schedule 3 are being or could be mined;

**"pay-dirt"** means mined placer gravel which is processed in a sluice box, wash plant or other device for the extracting of precious metals;

**"permitted for disturbance"** means the area of land that would be disturbed by carrying out all activities approved under a *Mines Act* permit or other permits issued as part of previous mine approvals;

**"placer mineral mine"** means a mine at which a placer mineral, as defined in the *Mineral Tenure Act,* is being or could be mined;

**"quarry"** means a mine at which construction stone or industrial mineral or other substance is being or could be mined, but which is not a mineral mine, placer mineral mine, coal mine or sand or gravel pit;

**"raw coal"** means coal which is transported from the mine site without having been processed in a coal preparation plant.

[am. B.C. Regs. 398/98, s. 1; 399/98, s. 17.]

### Coal mines

**19** (1) The construction of a new facility constitutes a reviewable project for the purposes of the Act if

(a) the facility is within SIC code 063 – Coal Mines, and

(b) the facility has, or when the construction phase is completed will have, a production capacity of 250 000 tonnes or more per year of clean coal or raw coal or a combination of both clean coal and raw coal.

(2) The modification of an existing facility constitutes a reviewable project for the purposes of the Act if

(a) the facility meets the criteria described in subsection (1) for a new facility, and

(b) the modification results in, or when construction of the modification is completed will result in, the lesser of

(i) the disturbance of 750 hectares or more of land not previously permitted for disturbance by mining activity, and

(ii) the disturbance of an area of land not already permitted for disturbance that is 50% or more of the area of land previously permitted for disturbance by mining activity at the facility.

[am. B.C. Reg. 399/98, s. 18.]

### Mineral mines

**20** (1) The construction of a new facility constitutes a reviewable project for the purposes of the Act if

(a) the facility is a mineral mine, and

(b) the facility has, or when the construction phase is completed will have, a production capacity of 75 000 tonnes or more of mineral ore per year.

(2) The modification of an existing facility constitutes a reviewable project for the purposes of the Act if

(a) the facility meets the criteria described in subsection (1) for a new facility, and

(b) the modification results in, or when construction of the modification is completed will result in, the lesser of

(i) the disturbance of 750 hectares or more of land not previously permitted for disturbance by mining activity, and

(ii) the disturbance of an area of land not already permitted for disturbance that is 50% or more of the area of land previously permitted for disturbance by mining activity at the facility.

[am. B.C. Reg. 399/98, s. 19.]

**Sand and gravel operations**

**21** (1) The construction of a new facility constitutes a reviewable project for the purposes of the Act if

(a) the facility is within SIC code 082 – Sand and Gravel Pits, and

(b) the facility has, or when the construction phase is completed will have, a production capacity of

(i) 500 000 tonnes or more of sand or gravel or both sand and gravel per year, or

(ii) 1 000 000 tonnes or more of sand or gravel or both sand and gravel over a period not exceeding 4 years.

(2) The modification of an existing facility constitutes a reviewable project for the purposes of the Act if

(a) the facility meets the criteria described in subsection (1) for a new facility, and

(b) the modification results in, or when construction of the modification is completed will result in, the disturbance of an area of land not previously disturbed by mining activity that is 35% or more of the area of land already disturbed by mining activity at the facility.

**Placer mines**

**22** (1) The construction of a new facility constitutes a reviewable project for the purposes of the Act if

(a) the facility is a placer mineral mine, and

(b) the facility has, or when the construction phase is completed will have, a production capacity of 500 000 tonnes or more of pay-dirt per year.

(2) The modification of an existing facility constitutes a reviewable project for the purposes of the Act if

(a) the facility meets the criteria described in subsection (1) for a new facility, and

(b) the modification results in, or when construction of the modification is completed will result in, the disturbance of an area of land not previously disturbed by mining activity that is 35% or more of the area of land already disturbed by mining activity at the facility.

**Construction stone and industrial mineral quarries**

**23** (1) The construction of a new facility constitutes a reviewable project for the purposes of the Act if

(a) the facility is a mine, quarry or otherwise involves the removal of construction stone or industrial minerals, and

(b) the facility has, or when the construction phase is completed will have, a production capacity of 250 000 tonnes or more per year.

(2) The modification of an existing facility constitutes a reviewable project for the purposes of the Act if

(a) the facility meets the criteria described in subsection (1) for a new facility, and

(b) the modification results in, or when construction of the modification is completed will result in, the lesser of

(i) the disturbance of 750 hectares or more of land not previously permitted for disturbance by mining activity, and

(ii) the disturbance of an area of land not already permitted for disturbance that is 50% or more of the area of land previously permitted for disturbance by mining activity at the facility.

[am. B.C. Regs. 398/98, s. 2; 399/98, s. 20.]

**Off-shore mines**

**24** (1) The construction of a new facility constitutes a reviewable project for the purposes of the Act if the facility is a platform, artificial island or other physical work, including any associated facilities, that is intended for the purpose of exploration for, or production of, a mineable substance from the foreshore or submerged land along a marine coastline or from an off-shore site located in salt water.

(2) The modification of an existing facility constitutes a reviewable project for the purposes of the Act if the facility meets the criteria described in subsection (1) for a new facility.

# PART 3 – ENERGY PROJECTS

**Definitions**

**25** In this Part:

**"electric transmission line"** means a transmission line of 500 kV or higher voltage;

**"energy"** and **"energy resource"** have the same meaning as in Part 2 of the *Utilities Commission Act;*

**"energy storage facility"** means a place where an energy resource is accumulated or stored in bulk as part of the process of being transported or distributed, but does not include

(a) a compressor, separator or dehydrator if the compressor, separator or dehydrator is used as a part of the production of natural gas or oil, or both, from a well, or

(b) underground facilities used in conjunction with the production of natural gas or oil, or both, from a well and located at the wellhead;

**"energy use project"** means a mill, factory, plant, smelter, oil refinery, metal refinery or other undertaking or works, other than a natural gas process plant, designed to use, convert or process an energy resource or coal, ethanol, methanol, hydrogen or methyl tertiary butyl ether (MTBE), or any combination of them, at the rate of 3 PJ or more per year, and for the purpose of this definition an energy resource other than electricity is used, converted or processed at that rate if it is of a quantity capable of yielding that amount of energy by combustion;

**"hydroelectric power plant"** means a facility for the generation of electricity from the motion of water, or from the position or potential motion of water, and includes associated dams, diversion works, water conduits and all structures, machinery, appliances, fixtures and equipment;

**"natural gas process plant"** means a facility for the production of natural gas that meets transmission pipeline specifications established by the transmission company, by removing natural gas liquids, sulphur, or substances other than natural gas or water;

**"other power plant"** means a facility for the generation of electricity from the movement of tidal water, wind or sun, and includes all associated structures, machinery, appliances, fixtures, equipment and storage and handling facilities;

**"process"** means any process designed to remove elements or compounds (hydrocarbon and non-hydrocarbon) from gas, including absorption, adsorption or refrigeration; but does not include field processing which normally takes place on or near the lease, such as natural pressure reduction, mechanical separation, heating, cooling, dehydration, and compression;

**"thermal electric power plant"** means a facility for the generation of electricity from the combustion of natural gas, oil, petroleum products, coal, wood, woodwaste or plant products or from the use of geothermal energy or from nuclear fission or fusion, and includes all associated structures, machinery, appliances, fixtures and equipment, and storage and handling facilities;

**"transmission pipeline"** means a pipe or system of pipes through which natural gas, oil or solids, or a liquid or gas derived from natural gas, oil or solids, whether in suspension or some other form, is transported, and includes compressor or pumping facilities and other equipment related to the operation of the transmission pipeline, associated terminal or storage facilities.

[am. B.C. Regs. 336/96, s. 3; 391/97, s. (a); 399/98, s. 21.]

**Electric transmission lines and associated substations**

**26** (1) The construction of a new facility constitutes a reviewable project for the purposes of the Act if the facility is an electric transmission line greater than 40 km in length on a new right of way.

(2) The review of a facility described in subsection (1) includes a review of the operations phase but does not include a review of the dismantling and abandonment phases of the facility.

(3) The modification of an existing facility constitutes a reviewable project for the purposes of the Act if

(a) the facility meets the criteria described in subsection (1) for a new facility, and

(b) the modification results in, or when construction of the modification is completed will result in, one of the following:

(i) a rebuilding of part or all of the facility, entailing the replacement of the existing towers, and with the rebuilt facility having a voltage of 500 kV or more;

(ii) the addition of one or more electric transmission lines within the right of way occupied by the existing facility;

(iii) construction of an extension to the facility, with the extension having a voltage of 500 kV or more;

(iv) Repealed. [B.C. Reg. 399/98, s. 22 (b).]

(4) The review of a modification described in subsection (3) includes a review of the construction and operations phases but does not include a review of the dismantling and abandonment phases of the modification.

(5) For the purposes of subsection (3) (b) (i), any of the following are deemed not to be reviewable modifications of an existing facility:

(a) relocation of existing transmission lines within an existing right of way;

(b) increasing the capacity of existing transmission lines by conductor or tower modifications or replacements or by changes to the terrain within an existing right of way;

(c) relocation of transmission line rights of way and associated transmission facilities provided they follow the existing general corridor and constitute a length less than 40 km;

(d) replacement of towers or electric lines or other repairs to an existing facility primarily for maintenance purposes.

[am. B.C. Reg. 399/98, s. 22.]

### Energy storage facilities

**27** (1) The construction of a new facility constitutes a reviewable project for the purposes of the Act if

(a) the facility is an energy storage facility, and

(b) the facility is capable of, or when the construction phase is completed will be capable of, storing an energy resource in a quantity that can yield by combustion 3 PJ or more of energy.

(2) The modification of an existing facility constitutes a reviewable project for the purposes of the Act if

(a) the facility meets the criteria described in subsection (1) for a new facility, and

(b) the modification results in, or when construction of the modification is completed will result in, an increase in the capability of the facility to store an energy resource by a quantity that can yield by combustion 3 PJ or more of energy.

(3) For the purposes of subsection (2), the replacement of project components solely for maintenance purposes is deemed not to be a reviewable modification of an existing facility.

(4) This section does not apply to the development or use of naturally occurring underground reservoirs for the storage of petroleum or natural gas in the Western Canadian Sedimentary Basin of North East British Columbia in the map groups and blocks set out in Schedule 2.

### Facilities that use, convert or process energy resources

**28** (1) The construction of a new facility constitutes a reviewable project for the purposes of the Act if the facility is an energy use project.

(2) The modification of an existing facility constitutes a reviewable project for the purposes of the Act if

(a) the facility meets the criteria described in subsection (1) for a new facility, and

(b) the modification results in, or when construction of the modification is completed will result in, an increase by 3 PJ or more per year in the rate at which an energy resource or coal, ethanol, methanol, hydrogen or MTBE, or any combination of them, is used, converted or processed.

(3) For the purposes of this section, an energy resource other than electricity is deemed to be used, converted or processed at the rate of 3 PJ or more per year if it is of a quantity capable of yielding that amount of energy by combustion.

[am. B.C. Reg. 336/96, s. 4.]

### Natural gas process plants

**28.1** (1) The construction of a new facility constitutes a reviewable project for the purposes of the Act if the facility is a natural gas process plant and

(a) has the design capacity to process natural gas at a rate of less than 5.634 million $m^3$ per day and will result in sulphur emissions to the atmosphere of 2 tonnes or more per day, or

(b) has the design capacity to process natural gas at a rate of 5.634 million $m^3$ or more per day.

(2) The modification of an existing facility constitutes a reviewable project for the purposes of the Act if the facility is a natural gas process plant or meets the criteria described in subsection (1) for a new facility and the modification will result in, or when construction of the modification is completed, will result in

(a) an incremental increase in sulphur emissions to the atmosphere of 2 tonnes or more per day, or

(b) a change in the design capacity of the facility that results in an incremental increase of 5.634 million $m^3$ or more per day in the capacity of the plant to process natural gas.

[en. B.C. Reg. 399/98, s. 23.]

### Transmission pipelines

**29** (1) The construction of a new facility constitutes a reviewable project for the purposes of the Act if

(a) the facility is a transmission pipeline in accordance with one of the following dimensions:

| Diameter | Length |
|---|---|
| (i) ≤114.3 mm | 60 km or more; |
| (ii) >114.3 and ≤323.9 mm | 50 km or more; |
| (iii) >323.9 mm | 40 km or more; |

(b) Repealed. [B.C. Reg. 225/99, s. (a).]

(2) The review of a facility described in subsection (1) includes a review of the operations phase but does not include a review of the dismantling and abandonment phases of the facility.

(3) The modification of an existing facility including rebuilding or expansions constitutes a reviewable project for the purposes of the Act if

(a) the facility meets the criteria described in subsection (1) for a new facility, and

(b) the modification is a transmission pipeline in one of the categories in subsection (1) (a).

(4) The review of a modification described in subsection (3) includes a review of the construction and operations phases but does not include a review of the dismantling and abandonment phases of the modification.

(5) For the purposes of subsection (3) (b) (i), the replacement of pipe primarily for maintenance or repair purposes is deemed not to be a reviewable modification of an existing facility.

[am. B.C. Regs. 343/97, s. (a); 399/98, s. 24; 225/99.]

**Power plants**

**30** (1) The construction of a new facility constitutes a reviewable project for the purposes of the Act if

(a) the facility is a hydroelectric power plant, thermal electric power plant or other power plant, and

(b) the facility has, or when the construction phase is completed will have, a rated nameplate capacity of 50 MW or more of electricity.

(2) The review of a hydroelectric power plant that meets the criteria described in subsection (1) (b) includes a review of the operations phase but does not include a review of the dismantling and abandonment phases of the facility.

(3) The modification of an existing facility constitutes a reviewable project for the purposes of the Act if

(a) the facility meets the criteria described in subsection (1) (a) for a new facility, and

(b) the facility has, or when construction of the modification is completed will have, a rated nameplate capacity which has increased by 50 MW or more of electricity.

(4) The review of a modification of a hydroelectric power plant that meets the criteria described in subsection (3) (b) includes a review of the construction and operations phases but does not include a review of the dismantling and abandonment phases of the modification.

(5) The dismantling or abandonment of an existing facility constitutes a reviewable project for the purposes of the Act if

(a) the facility is a hydroelectric power plant, and

(b) the facility

(i) includes a dam which is 10 m or more high, as measured from the lowest point of the foundation of the dam to the crest of the dam, or

(ii) has a maximum permitted rate of diversion of water under the *Water Act* that is 10 million $m^3$ or more of water per year.

[am. B.C. Reg. 399/98, s. 25.]

**30.1** Repealed. [B.C. Reg. 399/98, s. 26.]

**Off-shore oil and gas facilities**

**31** (1) The construction of a new facility constitutes a reviewable project for the purposes of the Act if the facility is a platform, artificial island or other physical work, including any associated facilities, that is intended for the purpose of exploration for, or production of, oil or natural gas or both from the foreshore or submerged land along a marine coastline or from an off-shore site located in salt water.

(2) The modification of an existing facility constitutes a reviewable project for the purposes of the Act if the facility meets the criteria described in subsection (1) for a new facility.

## PART 4 – WATER MANAGEMENT CONTAINMENT AND DIVERSION PROJECTS

**Definitions**

**32** In this Part:

**"hydroelectric power plant"** has the same meaning as in Part 3;

**"mine"** has the same meaning as in the *Mines Act*.

**Dams**

**33** (1) The construction of a new facility constitutes a reviewable project for the purposes of the Act if

(a) the facility is a dam that is, or when the construction phase is completed will be, 15 m or more high as measured from the lowest point of the foundation of the dam to the crest of the dam, or

(b) the facility is a dam that under the *Water Act* will be permitted to impound a reservoir containing 10 million $m^3$ or more of water above the natural boundaries of the streams that supply the water to the reservoir.

(2) The review of a facility described in subsection (1) includes a review of the operations phase but does not include a review of the dismantling or abandonment phases of the facility.

(3) The modification of an existing facility constitutes a reviewable project for the purposes of the Act if

(a) the facility meets the criteria described in subsection (1) for a new facility, and

(b) the modification results in, or when construction of the modification is completed will result in, an increase of the flooded area of the reservoir, as permitted under the *Water Act*, by 20 hectares or more.

(4) The review of a modification described in subsection (3) includes a review of the construction and operations phases but does not include a review of the dismantling or abandonment phases of the modification.

(5) The dismantling or abandonment of an existing facility constitutes a reviewable project for the purposes of the Act if

(a) the facility is a dam, and

(b) the facility is 10 m high or more, as measured from the lowest point of the foundation of the dam to the crest of the dam.

(6) This section does not apply to

(a) a dam that is a tailings impoundment constructed and operated solely to serve a single mine, or

(b) a dam or reservoir that is associated with a hydroelectric power plant as defined in Part 3.

[am. B.C. Reg. 336/96, s. 5.]

**Dykes**

**34** (1) The construction of a new facility constitutes a reviewable project for the purposes of the Act if

(a) the facility is a dyke, and

(b) the facility protects from flooding, or when the construction phase is completed will protect from flooding, an area of 10 $km^2$ or more.

(2) The review of a facility described in subsection (1) includes a review of the operations phase but does not include a review of the dismantling or abandonment phases of the facility.

(3) The modification of an existing facility constitutes a reviewable project for the purposes of the Act if

(a) the facility meets the criteria described in subsection (1) for a new facility, and

(b) the modification results in, or when construction of the modification is completed will result in, the raising of the entire length of the dyke.

(4) The review of a modification described in subsection (3) includes a review of the construction and operations phases but does not include a review of the dismantling or abandonment phases of the modification.

(5) The dismantling or abandonment of an existing facility constitutes a reviewable project for the purposes of the Act if the facility meets the criteria described in subsection (1) for a new facility.

**Water diversion projects**

35 (1) The construction of a new facility constitutes a reviewable project for the purposes of the Act if

(a) the facility is a works for the diversion of water, and

(b) the maximum rate of diversion of water permitted under the *Water Act* is, or when the construction phase is completed will be, 10 million $m^3$ or more of water per year.

(2) The review of a facility described in subsection (1) includes a review of the operations phase but does not include a review of the dismantling or abandonment phases of the facility.

(3) The modification of an existing facility constitutes a reviewable project for the purposes of the Act if

(a) the facility meets the criteria described in subsection (1) for a new facility and the modification results in, or when construction of the modification is completed will result in, an increase of 35% or more in the maximum rate of diversion of water per year permitted under the *Water Act*, or

(b) the facility does not meet the criteria described in subsection (1) (b) for a new facility but the facility is a works for the diversion of water, and the modification results in, or when construction of the modification is completed will result in,

(i) an increase of 35% or more in the maximum rate of diversion of water per year permitted under the *Water Act*, and

(ii) a maximum rate of diversion of water permitted under the *Water Act* that is or will be 10 million $m^3$ or more of water per year.

(4) The review of a modification described in subsection (3) includes a review of the construction and operations phases but does not include a review of the dismantling or abandonment phases of the modification.

(5) The dismantling or abandonment of an existing facility constitutes a reviewable project for the purposes of the Act if the facility meets the criteria described in subsection (1) for a new facility.

(6) This section does not apply to

(a) works for the diversion of water which have been authorized under section 8 of the *Water Act*,

(b) works that are intended solely for the purposes of a tailings pond constructed and operated to serve a single mine, or

(c) a water diversion project that is associated with a hydroelectric power plant as defined in Part 3.

**Groundwater extraction**

36 (1) The construction of a new facility constitutes a reviewable project if the facility is

(a) one or more works for the extraction of groundwater to be used for the same project or where, in the reasonable opinion of the executive director, the works are so closely related they can be considered to form a single project,

(b) operated intermittently or continuously for one year or more, and

(c) designed to be operated, or when the construction phase is substantially completed will be designed to be operated, so that groundwater is extracted at a rate of 75 litres or more per second.

(2) The modification of an existing facility constitutes a reviewable project for the purposes of the Act if

(a) the facility meets the criteria described in subsection (1) for a new facility and the modification results in, or when construction of the modification is substantially completed will result in,

(i) an increase of 35% or more over the current level at which the facility has been designed to be operated, or

(ii) an increase of 75 litres or more per second over the current level at which the facility has been designed to be operated, or

(b) the facility for the extraction of groundwater is a facility that meets the criteria in subsection (1) (a) and (b) but does not meet the criteria described in subsection (1) (c) for a new facility, but the modification results in, or when construction of the modification is substantially completed will result in,

(i) an increase of 35% or more over the current level at which the facility has been designed to be operated, and

(ii) an extraction rate of 75 litres or more per second.

(3) This section does not apply to a facility for the extraction of groundwater solely for the purpose of

(a) providing groundwater data for an application for a project approval certificate, or

(b) providing groundwater data where the testing is conducted by or under the supervision of a person registered as a member of the Association of Professional Engineers and Geoscientists of British Columbia with competency in the field of hydrogeology.

[en. B.C. Reg. 399/98, s. 27.]

**Shoreline modification projects**

37 (1) The construction of a new facility or the undertaking of a new activity unrelated to the construction of a new facility constitutes a reviewable project for the purposes of the Act if the construction of the facility or the undertaking of the activity

(a) results in changes in or about a stream, marine coastline or estuary, and

(b) entails dredging, filling or other direct disturbance of

(i) 1 000 m or more of linear shoreline, or

(ii) 2 hectares or more of foreshore or submerged land, or a combination of foreshore and submerged land, below the natural boundary of a stream, marine coastline or estuary.

(2) The review of a facility described in subsection (1) includes a review of the operations phase but does not include a review of the dismantling or abandonment phases of the facility.

(3) The modification of an existing facility constitutes a reviewable project for the purposes of the Act if

(a) the facility meets the criteria described in subsection (1) for a new facility and the modification results in, or when construction of the modification is completed will result in, an increase of 35% or more in

(i) the length of linear shoreline which is directly disturbed, or

(ii) the area of foreshore or submerged land, or a combination of foreshore and submerged land, below the natural boundary of a stream, marine coastline or estuary which is directly disturbed, or

(b) the facility does not meet the criteria described in subsection (1) (b) for a new facility but development of the facility has resulted in changes in or about a stream, coastline or estuary, and the modification results in, or when construction of the modification is completed will result in,

(i) an increase of 35% or more in

(A) the length of linear shoreline which is directly disturbed, or

(B) the area of foreshore or submerged land, or a combination of foreshore and submerged land, below the natural boundary of a stream, marine coastline or estuary which is directly disturbed, and

(ii) changes in or about a stream, coastline or estuary which in total equal or exceed the criteria described in subsection (1) (b) (i) or (ii) for a new facility.

(4) The review of a modification described in subsection (3) includes a review of the construction and operations phases but does not include a review of the dismantling or abandonment phases of the modification.

(5) The dismantling or abandonment of an existing facility constitutes a reviewable project for the purposes of the Act if the facility meets the criteria described in subsection (1) for a new facility.

(6) This section does not apply to the undertaking of the following activities:

(a) periodic shoreline cleanup projects, or

(b) periodic maintenance dredging of the foreshore or submerged land, or a combination of foreshore and submerged land, below the natural boundary of a stream, marine coastline or estuary.

(7) This section does not apply to a ferry terminal or a marine port facility.

## PART 5 – WASTE DISPOSAL PROJECTS

### Definitions

**38** In this Part:

**"biomedical waste"** means waste that is generated by

(a) human or animal health care facilities,

(b) medical or veterinary teaching establishments,

(c) health care teaching establishments,

(d) clinical testing and research laboratories, or

(e) facilities involved in the production or testing of vaccines,

and includes

(f) human anatomical waste consisting of human tissues, organs and body parts, but does not include teeth, hair or nails,

(g) animal waste consisting of all animal tissues, organs, body parts, carcasses, bedding, fluid blood and blood products, items saturated or dripping with blood, body fluids contaminated with blood, and body fluids removed for diagnosis or removed during surgery, treatment or autopsy, unless a trained person has certified that the waste does not contain the viruses and agents as listed in Risk Group 4, as that group is defined in the Transportation of Dangerous Goods Regulations, as amended from time to time under the *Transportation of Dangerous Goods Act* (Canada), but does not include teeth, hair, nails, hooves or feathers,

(h) microbiology laboratory waste consisting of laboratory cultures, stocks of specimens of micro-organisms, live or attenuated vaccines, human or animal cell cultures used in research, and laboratory material that has come into contact with any of these,

(i) human blood and body fluid waste consisting of human fluid blood and blood products, items saturated or dripping with blood, body fluids contaminated with blood, and body fluids removed for diagnosis during surgery, treatment or autopsy, but does not include urine or feces, and

(j) clinical and laboratory waste sharps consisting of needles, syringes, blades, or laboratory glass capable of causing punctures or cuts,

but does not include waste that

(k) originates from animal husbandry,

(l) is of household origin,

(m) is controlled in accordance with the *Health of Animals Act* (Canada),

(n) is generated in the food production, general building maintenance, and office administration activities of those facilities to which this definition applies, or

(o) is microbiology laboratory waste, human blood and body fluid waste or waste sharps after these wastes have been disinfected or decontaminated;

**"municipal liquid waste"**, **"municipal solid waste"**, **"special waste"** and **"waste"** have the meanings they have in the *Waste Management Act;*

**"incinerator"**, **"land treatment"**, **"long term storage"**, **"mobile facility"**, **"off site facility"**, **"surface impoundment"**, **"secure landfill"**, **"short term storage"**, **"thermal treatment"**, **"treatment"** and **"waste pile"** have the meanings they have in the Special Waste Regulation;

**"Special Waste Regulation"** means the Special Waste Regulation made under the *Waste Management Act.*

### Special waste facilities

**39** (1) The construction of a new facility constitutes a reviewable project for the purposes of the Act if the facility is for the storage or treatment, or both storage and treatment, of biomedical waste or special waste, and the facility is of a type specified in subsection (2).

(2) Subsection (1) applies to the following types of facilities:

(a) an off-site incinerator or thermal treatment facility, excluding a thermal treatment facility utilizing non-combustion technologies for the disinfection or sterilization of biomedical waste and excluding a biomedical waste incinerator or thermal treatment facility which has a design capacity of less than 5 tonnes per day;

(b) and (c) Repealed. [B.C. Reg. 399/98, s. 28 (c).]

(d) an off-site long-term storage facility or secure landfill;

(e) an off-site treatment facility, other than an incinerator, thermal treatment facility or land treatment facility,

(i) if one type of special waste, as listed in Column I of Table 1 of Schedule 6 of the Special Waste Regulation, is to be treated and the daily maximum design treatment capacity is at least 100 times greater than the storage permit quantity listed in Column III of that Table, or

(ii) if more than one type of special waste, as listed in Column I of Table 1 of Schedule 6 of the Special Waste Regulation, is to be treated and the cumulative maximum design treatment capacity is 100 000 kg or more per day or 100 000 litres or more per day, as appropriate.

(3) A proposal to use or treat a special waste at an offsite existing facility which has not previously been permitted to treat special wastes constitutes a reviewable project for the purposes of the Act.

(4) The modification of an existing facility constitutes a reviewable project for the purposes of the Act if

(a) the facility meets the criteria described in subsections (1) and (2) for a new facility, or described in subsection (3), and the modification results in, or when construction of the modification is completed will result in, an increase of 30% or more in the total waste discharge from the facility, or

(b) the facility is for the treatment of biomedical waste or special waste but does not meet the criteria described in subsection (2) (e), and the modification results in, or when construction of the modification is completed will result in,

(i) an increase in its capacity above the threshold under subsection (2) (e), and

(ii) an increase of 30% or more in the total waste discharge from the facility.

(5) This section does not apply to a facility for the treatment of a special waste which does not use or propose to use incineration or thermal treatment if the facility is

(a) a mobile off-site treatment facility, or

(b) a research and demonstration facility.

(6) This section does not apply to any treatment authorized by Part 6 of the Special Waste Regulation.

[am. B.C. Reg. 399/98, s. 28.]

### Local government solid waste management facilities

**40** (1) The construction of a new facility constitutes a reviewable project for the purposes of the Act if the board of a regional district has determined that the facility would be included in a solid waste management plan or a solid waste management plan amendment to be submitted to the Minister of Environment, Lands and Parks for approval as part of the Regional Solid Waste Management Planning Process and the facility is for the treatment or disposal of municipal solid waste by the operation of

(a) a landfill with a design capacity of 250 000 tonnes or more per year, or

(b) an incinerator with a design capacity of 225 tonnes or more per day.

(2) The modification of an existing facility constitutes a reviewable project for the purposes of the Act if

(a) the board of a regional district has determined that the modification would be included in a solid waste management plan or a solid waste management plan amendment to be submitted to the Minister of Environment, Lands and Parks for approval as part of the Regional Solid Waste Management Planning Process, and

(b) the facility

(i) meets the criterion described in subsection (1) (a) for a new facility and the modification results in, or when construction of the modification is completed will result in

(A) an extension in the lifespan of the facility beyond that lifespan currently authorized in an approved solid waste management plan, or

(B) an increase in the annual design capacity of the facility beyond that currently authorized in an approved solid waste management plan, or

(ii) does not meet the criterion described in subsection (1) (a) or (b) for a new facility but the modification results in, or when construction of the modification is completed will result in, an increase in the design capacity of the facility above the threshold under subsection (1) (a) or (b).

[en. B.C. Reg. 399/98, s. 29.]

**Local government liquid waste management facilities**

41 (1) The construction of a new facility constitutes a reviewable project for the purposes of the Act if

(a) the facility is for the treatment or disposal of municipal liquid waste, and

(b) the facility is designed to serve 10 000 or more people.

(2) The review of a facility described in subsection (1) includes a review of the operations phase but does not include a review of the dismantling or abandonment phases of the facility.

(3) Subsection (1) does not apply if the facility is a component of a Municipal Liquid Waste Management Plan approved under the *Waste Management Act*.

(4) The modification of an existing facility constitutes a reviewable project for the purposes of the Act if

(a) the facility meets the criteria described in subsection (1) for a new facility and the modification, not being the component of a Municipal Liquid Waste Management Plan approved under the *Waste Management Act*, results in, or when construction of the modification is completed will result in, an increase of 30% or more in the total waste discharge from the facility, or

(b) the facility meets the criteria described in subsection (1) (a) but does not meet the criteria described in subsection (1) (b) for a new facility, and the modification, not being a component of a Municipal Liquid Waste Management Plan approved under the *Waste Management Act*, results in, or when construction of the modification is completed will result in,

(i) an increase in its capacity sufficient to permit the plant to serve an existing or planned population of 10 000 people or more, and

(ii) an increase of 30% or more in the total waste discharge from the facility.

(5) The review of a modification described in subsection (4) includes a review of the construction and operations phases but does not include a review of the dismantling or abandonment phases of the modification.

(6) Subsection (4) does not apply if the modification is a component of a Municipal Liquid Waste Management Plan approved under the *Waste Management Act*.

[am. B.C. Reg. 399/98, s. 30.]

## PART 6 – FOOD PROCESSING PROJECTS

### Meat packing plants

**42** (1) The construction of a new facility constitutes a reviewable project for the purposes of the Act if

(a) the facility is within SIC code 1011 – Meat and Meat Products Industry (except poultry), and

(b) the facility has, or when the construction phase is completed will have, a maximum liquid waste discharge permitted under the *Waste Management Act* of 800 $m^3$ or more per day.

(2) The modification of an existing facility constitutes a reviewable project for the purposes of the Act if

(a) the facility meets the criteria described in subsection (1) for a new facility and the modification results in, or when construction of the modification is completed will result in, an increase of 30% or more in the total waste discharge from the facility, or

(b) the facility meets the criteria described in subsection (1) (a) for a new facility but does not meet the criteria described in subsection (1) (b) for a new facility, and the modification results in, or when construction of the modification is completed will result in

(i) a rate of liquid waste discharge permitted under the *Waste Management Act* of 800 $m^3$ or more per day, and

(ii) an increase of 30% or more in the total waste discharge from the facility.

[am. B.C. Regs. 336/96, s. 6; 399/98, s. 31.]

**Poultry processing plants**

**43** (1) The construction of a new facility constitutes a reviewable project for the purposes of the Act if

(a) the facility is within SIC code 1012 – Poultry Products Industry, and

(b) the facility has, or when the construction phase is completed will have, a maximum liquid waste discharge permitted under the *Waste Management Act* of 800 $m^3$ or more per day.

(2) The modification of an existing facility constitutes a reviewable project for the purposes of the Act if

(a) the facility meets the criteria described in subsection (1) for a new facility and the modification results in, or when construction of the modification is completed will result in, an increase of 30% or more in the total waste discharge from the facility, or

(b) the facility meets the criteria described in subsection (1) (a) for a new facility but does not meet the criteria described in subsection (1) (b) for a new facility, and the modification results in, or when construction of the modification is completed will result in,

(i) a rate of liquid waste discharge permitted under the *Waste Management Act* of 800 $m^3$ or more per day, and

(ii) an increase of 30% or more in the total waste discharge from the facility.

[am. B.C. Reg. 399/98, s. 32.]

**Fish processing plants**

**44** (1) The construction of a new facility constitutes a reviewable project for the purposes of the Act if

(a) the facility is within SIC code 1021 – Fish Products Industry, and

(b) the facility has, or when the construction phase is completed will have, a maximum liquid waste discharge permitted under the *Waste Management Act* of 800 $m^3$ or more per day.

(2) The modification of an existing facility constitutes a reviewable project for the purposes of the Act if

(a) the facility meets the criteria described in subsection (1) for a new facility and the modification results in, or when construction of the modification is completed will result in, an increase of 30% or more in the total waste discharge from the facility, or

(b) the facility meets the criteria described in subsection (1) (a) for a new facility but does not meet the criteria described in subsection (1) (b) for a new facility, and the modification results in, or when construction of the modification is completed will result in,

(i) a the rate of liquid waste discharge permitted under the *Waste Management Act* of 800 $m^3$ or more per day, and

(ii) an increase of 30% or more in the total waste discharge from the facility.

[am. B.C. Reg. 399/98, s. 33.]

## PART 7 – TRANSPORTATION PROJECTS

### Definition

**45** In this Part, **"public highway"** means every road, street, lane, bridge or right of way designed or intended for use by the general public for the passage of vehicles, but does not include private roads.

[en. B.C. Reg. 399/98, s. 34.]

### Public highways

**46** (1) The construction of a new facility constitutes a reviewable project for the purposes of the Act if the facility consists of, or when the construction phase is completed will consist of, 20 contiguous km or more of paved public highway with 2 or more lanes.

(2) The review of a new facility described in subsection (1) includes a review of the operations phase but does not include a review of the dismantling or abandonment phases of the facility.

(3) The modification of an existing facility constitutes a reviewable project for the purposes of the Act if the modification results in, or when construction of the modification is completed will result in, the addition of at least 2 lanes of paved public highway to an existing paved public highway over a contiguous distance of 20 km or more.

(4) The review of a modification described in subsection (3) includes a review of the construction and operations phases of the modification but does not include a review of the dismantling or abandonment phases of the modification.

(5) Repealed. [B.C. Reg. 399/98, s. 35.]

[am. B.C. Regs. 336/96, s. 7; 399/98, s. 35.]

### Railways

**47** (1) The construction of a new facility constitutes a reviewable project for the purposes of the Act if

(a) the facility is a mainline railway, and

(b) the facility consists of, or when the construction phase is completed will consist of,

(i) 20 contiguous km or more of developed track, or

(ii) a rail line designed to accommodate high-speed trains with a design speed of 200 km/h or more.

(2) The review of a new facility described in subsection (1) includes a review of the operations phase but does not include a review of the dismantling or abandonment phases of the facility.

(3) The modification of an existing facility constitutes a reviewable project for the purposes of the Act if the modification results in, or when construction of the modification is completed will result in,

(a) the addition of one or more lines of mainline track to an existing mainline railway over a contiguous distance of 20 km or more, or

(b) a mainline railway designed to accommodate high-speed trains with a design speed of 200 km/h or more.

(4) The review of a modification described in subsection (3) includes a review of the construction and operations phases of the modification but does not include a review of the dismantling or abandonment phases of the modification.

**48** Repealed. [B.C. Reg. 331/98.]

**Ferry terminals**

**49** (1) The construction of a new facility constitutes a reviewable project for the purposes of the Act if

(a) the facility is a ferry terminal, and

(b) either

(i) the facility has, or when the construction phase is completed will have, an outbound annual vehicle throughput capacity of 500 000 or more vehicles, or

(ii) construction of the facility entails dredging, filling or other direct disturbance of 1 000 m or more of linear shoreline or 2 hectares or more of foreshore or submerged land, or a combination of foreshore and submerged land, below the natural boundary of a marine coastline or marine estuary.

(2) The review of a new facility described in subsection (1) includes a review of the operations phase but does not include a review of the dismantling or abandonment phases of the facility.

(3) The modification of an existing facility constitutes a reviewable project for the purposes of the Act if

(a) the facility meets the criteria described in subsection (1) for a new facility, and

(b) either

(i) the modification results in, or when construction of the modification is completed will result in, an increase in the outbound annual vehicle throughput capacity of 35% or more, or

(ii) construction of the modification entails dredging, filling or other direct disturbance of 1 000 m or more of linear shoreline or 2 hectares or more of foreshore or submerged land, or a combination of foreshore and submerged land, below the natural boundary of a marine coastline or marine estuary.

(4) The review of a modification described in subsection (3) includes a review of the construction and operations phases of the modification but does not include a review of the dismantling or abandonment phases of the modification.

(5) This section does not apply to periodic maintenance dredging for an existing facility.

**Marine port facilities**

**50** (1) The construction of a new facility constitutes a reviewable project for the purposes of the Act if

(a) the facility is a marine port facility other than a ferry terminal as described under section 49, and

(b) construction of the facility entails dredging, filling or other direct disturbance of 1 000 m or more of linear shoreline or 2 hectares or more of foreshore or submerged land, or a combination of foreshore and submerged land, below the natural boundary of a marine coastline or marine estuary.

(2) The review of a new facility described in subsection (1) includes a review of the operations phase but does not include a review of the dismantling or abandonment phases of the facility.

(3) The modification of an existing facility constitutes a reviewable project for the purposes of the Act if

(a) the facility meets the criteria described in subsection (1) for a new facility, and

(b) construction of the modification entails dredging, filling or other direct disturbance of 1 000 m or more of linear shoreline or 2 hectares or more of foreshore or submerged land, or a combination of foreshore and submerged land, below the natural boundary of a marine coastline or marine estuary.

(4) The review of a modification described in subsection (3) includes a review of the construction and operations phase of the modification but does not include a review of the dismantling or abandonment phases of the modification.

(5) This section does not apply to periodic maintenance dredging for an existing facility.

**Airports**

51 (1) The construction of a new facility constitutes a reviewable project for the purposes of the Act if

(a) the facility is an airport, and

(b) the facility has, or when the construction phase is completed will have, a runway of 1 500 m or more in length.

(2) The review of a new facility described in subsection (1) includes a review of the operations phase but does not include a review of the dismantling or abandonment phases of the facility.

(3) The modification of an existing facility constitutes a reviewable project for the purposes of the Act if

(a) the facility meets the criteria described in subsection (1) (a) for a new facility, and

(b) the modification results in, or when construction of the modification is completed will result in,

(i) the installation of a new runway of 1 500 m or more in length,

(ii) the extending of an existing runway of less than 1 500 m in length by 1 500 m or more in length, or

(iii) the extending of an existing runway of 1 500 m or more in length by 500 m or more in length.

(4) The review of a modification described in subsection (3) includes a review of the construction and operations phases of the modification but does not include a review of the dismantling or abandonment phases of the modification.

## PART 8 – TOURISM AND RECREATIONAL PROJECTS

**Definitions**

52 In this Part:

**"bed unit"** means the accommodation required for one person to stay overnight, and includes accommodation which is available on a night-by-night basis and permanent residential accommodation;

**"commercial bed unit"** means the accommodation required for one person to stay overnight, but does not include permanent residential accommodation;

**"golf resort development"** means a resort development with attached facilities for golfing;

**"marine resort development"** means a resort development with attached moorage facilities;

**"resort development"** means a commercial operation catering to tourists that serves regional, provincial or international markets, or any of them, as well as the local population;

**"ski resort development"** means a resort development with attached facilities for skiing.

**Destination resort projects**

53 (1) The construction of a new facility constitutes a reviewable project for the purposes of the Act if the facility is within one of the following categories:

(a) the facility is a resort development, with or without associated recreation facilities, which is not a golf resort development, a marine resort development or a ski resort development and which has, or when the construction phase is completed will have, 2 000 bed units or more;

(b) the facility is a golf resort development and has, or when the construction phase is completed will have,

(i) a developed base area of 200 hectares or more, which includes 100 hectares or more of golf courses and 100 hectares or more of area for the club house, hotel, restaurant, parking and ancillary services, and

(ii) 600 commercial bed units or more;

(c) the facility is a marine resort development and has, or when the construction phase is completed will have,

(i) a marina with 1 000 linear metres of moorage or more, and

(ii) 600 commercial bed units or more;

(d) the facility is a ski resort development and has, or when the construction phase is completed will have,

(i) a developed base area of 150 hectares or more, including the infrastructure and facilities required at the base of the ski hill or hills to provide accommodation, meals, entertainment, transportation facilities, parking and ancillary services, but not including the ski runs,

(ii) 2 000 bed units or more, or

(iii) a maximum rate of liquid waste discharge permitted under the *Waste Management Act* of 800 $m^3$ or more per day.

(2) The review of a facility described in subsection (1) includes a review of the operations phase but does not include a review of the dismantling and abandonment phases of the facility.

(3) The modification of an existing facility constitutes a reviewable project for the purposes of the Act if the modification falls within one of the following categories:

(a) the existing facility meets the described criteria in subsection (1) (a) for a new facility, with or without associated recreation facilities, and the modification results in, or when construction of the modification is completed will result in, an increase in the number of bed units at the facility by 2 000 or more;

(b) the existing facility meets the criteria described in subsection (1) (b) for a new facility and the modification results in, or when construction of the modification is completed will result in,

(i) an increase in the developed base area of the facility by 200 hectares or more, and

(ii) an increase in the number of commercial bed units at the facility by 600 or more:

(c) the existing facility meets the criteria in subsection (1) (c) for a new facility and the modification results in, or when construction of the modification is completed will result in,

(i) an increase in the moorage at the facility by 1 000 linear metres or more, and

(ii) an increase in the number of commercial bed units at the facility by 600 or more;

(d) the existing facility meets the criteria in subsection (1) (d) for a new facility and the modification results in, or when construction of the modification is completed will result in,

(i) an increase in the developed base area of the facility by 150 hectares or more,

(ii) an increase in the number of bed units at the facility by 2 000 or more, or

(iii) an increase in the maximum rate of liquid waste discharge permitted under the *Waste Management Act* at the facility by 800 $m^3$ or more per day.

(4) The review of a modification described in subsection (3) includes a review of the construction and operations phases of the modification but does not include a review of the dismantling and abandonment phases of the modification.

# SCHEDULE 1

## CONTAMINANT WEIGHTING FACTORS

### Table 1

| *Air Contaminant* | *Weighting Factor* |
|---|---|
| Carbon Dioxide | 0.00 |
| Methane | 0.00 |
| Ammonia | 1.00 |
| Asbestos* | 1.00/unit |
| Carbon Monoxide | 0.03 |
| Chlorine and Chlorine Oxides | 0.67 |
| Fluorides | 40.14 |
| Hydrocarbons | 1.00 |
| Hydrogen Chloride | 0.67 |
| Metals | 40.14 |
| Nitrogen Oxides | 0.67 |
| Phenols | 1.00 |
| Sulphur and Sulphur Oxides | 0.78 |
| Total Particulate | 1.00 |
| Total Reduced Sulphur | 33.45 |
| Volatile Organic Compounds | 1.00 |
| Other contaminants not otherwise specified | 1.00 |

* Units of Asbestos are equivalent to 5 cubic meters of air emissions per minute at a concentration of 2 fibres per cubic centimeter. Rates of discharge for other air contaminants are measured in tonnes.

### Table 2

| *Effluent Contaminant* | *Weighting Factor* |
|---|---|
| Acute Toxicity** | 1.10/unit |
| Ammonia | 7.53 |
| Adsorbable Organic Halides | 20.00 |
| Arsenic | 20.00 |
| Biochemical Oxygen Demand | 1.51 |
| Chlorine | 20.00 |
| Cyanide | 20.00 |
| Fluoride | 7.53 |
| Metals | 20.00 |
| Nitrogen and Nitrates | 3.01 |
| Oil and Grease | 5.02 |
| Other Petroleum Products | 5.02 |
| Other Solids | 1.00 |
| Phenols | 20.00 |
| Phosphorus and Phosphates | 7.53 |
| Sulphates | 0.29 |
| Sulphides | 20.00 |

| | |
|---|---|
| Surfactants | 5.02 |
| Suspended Solids | 1.00 |
| Other contaminants not otherwise specified | 1.00 |

** Units of Acute Toxicity are determined using the following formula:

$$\text{Units of Acute Toxicity} = \frac{\left(\frac{\text{Average Daily Flow}}{20}\right)(100 - LC_{50})}{100}$$

Rates of discharge for other effluent contaminants are measured in tonnes.

## Table 3

| *Solid Contaminant* | *Weighting Factor* |
|---|---|
| Coarse Coal Refuse | 8.00 |
| Refuse | 1.00 |

Rates of discharge for solid contaminants are measured in tonnes.

# SCHEDULE 2

[am. B.C. Reg. 336/96, s. 8.]

## MAP GROUPS AND BLOCKS CONTAINED WITHIN THE WESTERN CANADIAN SEDIMENTARY BASIN OF NORTH EAST BRITISH COLUMBIA

*(Section 27 (4))*

| *MAP GROUP(S)* | *BLOCK(S)* |
|---|---|
| 93-H-01 | I, J |
| 93-H-07 | H, I, J |
| 93-H-08 | A, B, C, E, F, G, H, I, J, K, L |
| 93-H-09, 15, 16 | ALL |
| 93-H-10 | A, B, C, E, F, G, H, I, J, K, L |
| 93-H-11 | H, I, J |
| 93-H-13 | H, I, J |
| 93-H-14 | A, B, C, E, F, G, H, I, J, K, L |
| 93-I-01-03, 5-16 | ALL |
| 93-I-04 | A, B, C, E, F, G, H, I, J, K, L |
| 93-J-01 | I |
| 93-J-08 | A, B, F, G, H, I, J, K, L |
| 93-J-09, 16 | ALL |
| 93-J-10 | H, I, J |
| 93-J-15 | A, B, C, F, G, H, I, J, K, L |
| 93-N-16 | I |
| 93-O-01, 02, 07-11, 13-16 | ALL |
| 93-O-03 | A, G, H, I, J |
| 93-O-05 | I |
| 93-O-06 | A, B, C, E, F, G, H, I, J, K, L |
| 93-O-12 | A, G, H, I, J, K |
| 93-P (01-16) | ALL |
| 94-A (01-16) | ALL |
| 94-B (01-16) | ALL |
| 94-G (01-16) | ALL |
| 94-H (01-16) | ALL |
| 94- I (01-16) | ALL |
| 94- J (01-16) | ALL |
| 94-K (01-16) | ALL |
| 94-N (01-16) | ALL |
| 94-O (01-16) | ALL |
| 94-P (01-16) | ALL |
| 94-C-01 | A, B, G, H, I, J, K |
| 94-C-07 | I |
| 94-C-08, 09, 15, 16 | ALL |
| 94-C-10 | A, B, G, H, I, J, K |
| 94-C-14 | H, I |
| 94-E-16 | H, I |

| | |
|---|---|
| 94-F-01, 02, 06-11, 13-16 | ALL |
| 94-F-03 | A, B, F, G, H, I, J, K |
| 94-F-05 | I |
| 94-F-12 | A, B, G, H, I, J, K |
| 94-L-01 | A, B, F, G, H, I, J, K, L |
| 94-L-07 | A, G, H, I, J, K |
| 94-L-08-10, 15, 16 | ALL |
| 94-L-11 | H, I, J |
| 94-L-13 | I |
| 94-L-14 | A, B, C, E, F, G, H, I, J, K, L |
| 94-M-01-03, 05-16 | ALL |
| 94-M-04 | A, G, H, I, J, K |
| 95-A (01-04) | A, B, C, D |
| 95-B (01-04) | A, B, C, D |
| 95-C (01-04) | A, B, C, D |
| 95-D (01-04) | A, B, C, D |
| 104-P-08 | I |
| 104-P-09 | A, B, F, G, H, I, J, K, L |
| 104-P-15 | H, I, J |
| 104-P-16 | ALL |
| 105-A-01 | A, B, C, D |
| 105-A-02 | A, B |

# SCHEDULE 3

[en. B.C. Reg. 398/98, s. 3.]

## INDUSTRIAL MINERALS

1 The following are industrial minerals for the purposes of the definition of those terms in section 18:

(a) all rock or stone used to produce dimension stone or building facing stone, or for any other ornamental or decorative purpose;

(b) barite, calcite, dolomite, gypsum, limestone, magnesite, phosphate rock, wollastonite;

(c) bentonite, clay, diatomaceous earth, pozzolanic materials, zeolite, kaolin clay, and all related substances;

(d) pumice, lava, volcanic ash and all related substances;

(e) all substances in which silica is the predominant mineral and which are used for an industrial purpose, including massive silica, quartz, quartzite, garnet and corundum;

(f) jade, rhodonite and all decorative stone and rock;

(g) talc;

(h) marl;

(i) feldspar;

(j) shale and slate.

[Provisions of the *Environmental Assessment Act,* R.S.B.C. 1996, c. 119, relevant to the enactment of this regulation: section 3]

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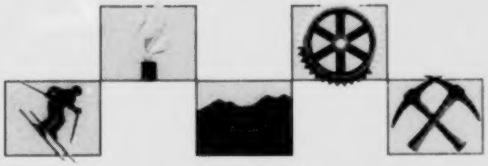
ENVIRONMENTAL ASSESSMENT OFFICE

# APPENDIX 3

# BC ENVIRONMENTAL ASSESSMENT PRESCRIBED TIME LIMITS REGULATION



BRITISH
COLUMBIA

B.C. Reg. 278/95
O.C. 738/95

Deposited June 29, 1995
effective June 30, 1995

*Environmental Assessment Act*

# ENVIRONMENTAL ASSESSMENT PRESCRIBED TIME LIMITS REGULATION

## *Contents*

1 Interpretation
2 Acceptance of an application for review
3 Establishment of project committee
4 Orders respecting amendments
5 Written assessment
6 Public comments
7 Notice inviting comments
8 Notice of comments received
9 Decision on application
10 Ministers' action on application
11 Draft project report specifications
12 Final project report specifications
13 Project report for review
14 Action by appropriate authority
15 Referral to ministers for decision
16 Ministers' power to approve, reject or refer to board
17 Minister to specify draft terms of reference
18 Minister to prepare final terms of reference
19 Lieutenant Governor in Council's decision to approve or reject
20 Issuance of approvals under specified enactments
21 Placing records on project registry

### Interpretation

**1** In this regulation **"Act"** means the *Environmental Assessment Act*.

### Acceptance of an application for review

**2** For the purpose of section 8 (1) of the Act, 7 days is the prescribed period after the receipt of an application for a project approval certificate within which the executive director must comply with the requirements of section 8 (1) of the Act.

### Establishment of project committee

**3** For the purpose of section 9 (1) of the Act, 20 days is the prescribed period after the proponent supplies copies of the application within which the executive director must establish a project committee.

### Orders respecting amendments

**4** For the purpose of section 13 (1) of the Act, 60 days is the prescribed period after receipt of a request under section 12 of the Act within which the executive director must comply with the requirements of section 13 (1) of the Act.

**Written assessment**

5 For the purpose of section 14 (1) (a) and (b) of the Act, 45 days is the prescribed period after the proponent supplies copies within which the executive director must make a written assessment.

**Public comments**

6 (1) For the purpose of section 16 (1) of the Act, 7 days is the prescribed period after completion of a step in the review process within which the executive director must give notice to the public inviting comments.

(2) For the purpose of section 16 (2) of the Act, the executive director must specify the period for receipt of public comments that is

(a) not less than 30 days and not more than 75 days for a decision under section 19 of the Act,

(b) not less than 15 days and not more than 30 days for the preparation in final form of project report specifications under section 24 of the Act,

(c) not less than 45 days and not more than 60 days for a referral of the application under section 29 of the Act, and

(d) not less than 30 days and not more than 60 days for the preparation in final form of the terms of reference under section 32 of the Act,

and the period of public comment must commence not less than 7 days following the giving of notice under section 16 (1) of the Act.

**Notice inviting comments**

7 For the purpose of section 17 of the Act, 7 days is the prescribed period after completion of a step under section 16 (1) of the Act within which the executive director must circulate a notice inviting comments about that step.

**Notice of comments received**

8 For the purpose of section 18 of the Act, 7 days is the prescribed period after the expiry of the time for receipt of comments under section 16 (2) of the Act within which the executive director must comply with the requirements of section 18 of the Act.

**Decision on application**

9 For the purpose of section 19 (1) of the Act, 40 days is the prescribed period after expiry of the time for receipt of comments under section 16 (2) of the Act within which the executive director must comply with the requirements of section 19 (1) of the Act.

**Ministers' action on application**

10 For the purpose of section 20 of the Act, 30 days is the prescribed period after the referral under section 19 (1) (a) of the Act within which the minister must comply with the requirements of section 20 of the Act.

### Draft project report specifications

**11** For the purpose of section 21 of the Act, 20 days is the prescribed period after an order is given under section 19 (1) (b) or 20 (b) (iii) of the Act within which the executive director must comply with the requirements of section 21 of the Act.

### Final project report specifications

**12** For the purpose of section 24 of the Act, 20 days is the prescribed period after expiry of the time for receipt of comments under section 16 (2) of the Act within which the executive director must comply with the requirements of section 24 of the Act.

### Project report for review

**13** For the purpose of section 26 (1) of the Act, 25 days is the prescribed period after receipt of a project report under section 24 (b) (ii) of the Act within which the executive director must comply with the requirements of section 26 (1) of the Act.

### Action by appropriate authority

**14** For the purpose of section 28 (2) of the Act, 30 days is the prescribed period after the issuance of a project approval certificate within which the appropriate authority must comply with the requirements of section 28 (2) of the Act.

### Referral to ministers for decision

**15** For the purpose of section 29 (2) of the Act, 70 days is the prescribed period after expiry of the time for receipt of comments under section 16 (2) of the Act within which the executive director must refer the application for a decision under section 30 of the Act.

### Ministers' power to approve, reject or refer to board

**16** For the purpose of section 30 (1) of the Act, 45 days is the prescribed period after the referral under section 29 (2) of the Act within which the ministers must comply with the requirements of section 30 (1) of the Act.

### Minister to specify draft terms of reference

**17** For the purpose of section 31 (1) of the Act, 30 days is the prescribed period after the referral under section 30 (1) (b) (iii) of the Act within which the minister must comply with the requirements of section 31 (1) of the Act.

### Minister to prepare final terms of reference

**18** For the purpose of section 32 of the Act, 30 days is the prescribed period after expiry of the time for receipt of comments under section 16 (2) of the Act within which the minister must comply with the requirements of section 32 of the Act.

### Lieutenant Governor in Council's decision to approve or reject

**19** For the purpose of section 34 (1) of the Act, 45 days is the prescribed period after receiving the board's report under section 33 of the Act within which the Lieutenant Governor in Council must comply with the requirements of section 34 (1) of the Act.

### Issuance of approvals under specified enactments

**20** For the purpose of section 34 (2) of the Act, 30 days is the prescribed period after the date of issuance of the project approval certificate under section 34 (1) (a) of the Act within which approvals under specified enactments must be issued.

### Placing records on project registry

**21** (1) For the purpose of section 62 (2) of the Act, other than paragraphs (g) and (s) of that subsection, 7 days is the prescribed period after which a record is received within which the executive director must file a copy of the record at the project registry.

(2) For the purpose of section 62 (2) (g) and (s), 30 days is the prescribed period after which a record is received within which the executive director must file a copy of the record at the project registry.

[Provisions of the *Environmental Assessment Act*, R.S.B.C. 1996, c. 119, relevant to the enactment of this regulation: section 92 (2) (a)]

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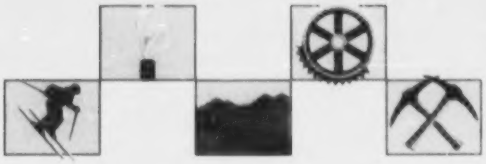
ENVIRONMENTAL ASSESSMENT OFFICE

# APPENDIX 4

# GUIDELINES FOR THE PREPARATION OF AN APPLICATION FOR A PROJECT APPROVAL CERTIFICATE



BRITISH
COLUMBIA

Environmental Assessment Office
*Environmental Assessment Act* – Review Process

# GUIDELINES FOR PREPARATION OF AN APPLICATION FOR A PROJECT APPROVAL CERTIFICATE

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July 1999

BRITISH
COLUMBIA

# 1. INTRODUCTION

According to the BC *Environmental Assessment Act* (Act), a proponent who intends to build and operate, or modify, certain types of projects in British Columbia, must apply for a Project Approval Certificate (Certificate) and be subject to an assessment defined in the Act. A review under the Act is normally only required if the plant or facility is captured by the *Reviewable Projects Regulation*, setting defined thresholds for reviewable projects. However, the Minister of Environment, Lands and Parks can declare any proposed project reviewable if it meets the criteria outlined in section 4 of the Act.

Section 7 of the Act defines what an Application must contain. However, Section 7(2)(a) to (o), inclusive, only provides general guidance as to what an Application must include. Proponents are also encouraged to consult the *Guide to the British Columbia Environmental Assessment Process*, June 1995, section 3 and Appendix 1.

The enclosed Guidelines attempt to offer proponents with projects captured by the Act a more detailed guidance to Application structure and content. A generic Table of Contents for a model Application under the Act is outlined over the next pages. Since information and assessment requirements will vary from project to project, it is anticipated that application contents will vary, to a certain degree, from sector to sector. The Environmental Assessment Office (EAO) may issue reference material for sector specific Application requirements.

These Guidelines are developed to advise proponents on the structure and content of an appropriate Application under the Act. The Guidelines are not fully tailored to reviews under the *Canadian Environmental Assessment Act*. There will be different project material requirements required under the federal Act, subject to a "screening study" or a "comprehensive study". Proponents are encouraged to contact the Canadian Environmental Assessment Agency (CEAA) for further details.

It should be stressed that while section 7 of the Act provides guidance on Application content, section 19(2) of the Act defines the test for whether the Application contains sufficient information for the review to be completed without proceeding to a project report stage (Stage 2) review. A proponent may submit an Application complying with section 7 of the Act. However, there is no guarantee that an Application will meet the test of section 19(2); if it does not, the review will proceed to a stage 2 under the Act.

Proponents are encouraged to discuss their Application with the (EAO) and key review agencies prior to filing their Application. The enclosed Guidelines will provide pertinent references for such pre-application consultation.

## 2. GENERIC TABLE OF CONTENTS

The following generic Table of Contents (TOC) is suggested for filing an Application for a Certificate under the Act. The model structure outlined below will cover the requirements specified in Section 7(2) of the Act. For cross-reference between the enclosed TOC and requirements under Section 7(2) of the Act, reference is made to Appendix 1 of these Guidelines.

The generic TOC is structured so that an Application will contain the following key assessment sections:

- Existing Setting and Effects Information
- Project Description
- Issue Identification and Project Impacts
- Mitigation Measures and Monitoring
- Information Distribution and Consultation

Please turn the page for a summary of TOC items. General information requirements under each sub-section are further defined in the following pages.

**EXECUTIVE SUMMARY**

**1.0 INTRODUCTION**
- 1.1 Proponent Identification
- 1.2 General Background
- 1.3 Project Rationale
- 1.4 Project Overview
- 1.5 Regulatory Framework

**2.0 PROJECT AREA**
- 2.1 Study Region
- 2.2 Alternative Locations of Project

**3.0 ENVIRONMENTAL SETTING**
- 3.1 Physiography, Geology and Natural Hazards
- 3.2 Climate/Meteorology
- 3.3 Surface and Ground Water
- 3.4 Aquatic Environment
- 3.5 Terrestrial Environment
- 3.6 Land Resources

**4.0 ECONOMIC SETTING**
- 4.1 Regional and Area Economy
- 4.2 Labour Market
- 4.3 Revenues and Taxes
- 4.4 Infrastructure

**5.0 SOCIAL SETTING**
- 5.1 Demography
- 5.2 Housing
- 5.3 Transportation and Traffic
- 5.4 Social Support Services
- 5.5 Community Stability

**6.0 HEALTH SETTING**
- 6.1 Water, Waste, Sewage, Air, and Noise Considerations
- 6.2 Emergency Planning
- 6.3 Public Health and Safety
- 6.4 Remote Camps

**7.0 CULTURAL AND HERITAGE SETTING**
- 7.1 Archaeological Sites
- 7.2 Historic Sites and Landscape Features

**8.0 FIRST NATIONS SETTING**
- 8.1 Regional and Area Overview
- 8.2 First Nations Impact Assessment
- 8.3 Consultation Activities

**9.0 PROJECT DESCRIPTION**
- 9.1 Project Rationale
- 9.2 Project Location, Alternatives and Site Selection
- 9.3 Project Facilities and Design
- 9.4 Project Phases and Schedules
- 9.5 Capital Costs
- 9.6 Labour Force Requirements
- 9.7 Risk Statement

**10.0 METHODOLOGY AND ISSUE SCOPING**
- 10.1 Issue Assessment Methodology
- 10.2 Issue Scoping

**11.0 PROJECT IMPACTS AND MITIGATION MEASURES**
- 11.1 Categories and Significance of Impacts
- 11.2 Environment
- 11.3 Environmental Management Plan
- 11.4 Economic and Social Issues
- 11.5 Health Impacts
- 11.6 Cultural and Heritage
- 11.7 First Nations
- 11.8 Cumulative Effects

**12.0 INFORMATION DISTRIBUTION AND CONSULTATION**
- 12.1 Initiatives Undertaken
- 12.2 Future Program

**13.0 GOVERNMENT CONSULTATION**

**14.0 REFERENCES AND LIST OF ENCLOSURES**

**ENCLOSURES** (Tables/Diagrams/Figures/Plans/Drawings)

## 3. TABLE OF CONTENTS – DETAILS

The Environmental Assessment Office has attempted, in a tabular form, to provide detailed requirements for application content. This guidance is provided in the following pages, covering each of the 14 sections included in the Guidelines' generic contents, suggested in Section 2. It should be noted that the generic contents are not comprehensive and that agency requirements may not be limited to those items listed in the following table. All proponents are encouraged to contact individual agencies before proceeding with any of the information requirements.

Date of issue: June 15, 1999

Amendments: Number: Date:

| Subsection | Recommended Content |
|---|---|
| None | Provide a concise description of all key facets of the project. This is important as the text can be used by the Environmental Assessment Office (EAO) for public notices, including newspaper advertisements. The executive summary should also provide a general outline of key impact issues and proposed mitigation strategies and measures. The proponent should also include a succinct description of information distribution, as well as First Nations and public consultation measures undertaken. |

## GENERIC TABLE OF CONTENTS SECTION 1.0 Introduction

| Subsections | | Recommended Content |
|---|---|---|
| 1.1 | Proponent Identification: company | Provide proponent information (i.e., name, address, phone, fax, email). Include name of representative managing the project. Include company incorporation, structure and stock exchange listing. |
| 1.2 | General Background: | Provide brief summary of project, location and rationale for site location. |
| 1.3 | Project Rationale: | Provide overview of project purpose and justification. Describe general economic background, including market coverage. |
| 1.4 | Project Overview: | Provide a brief description of the project components, process technology and use of natural resources. Identify general resource input and output of the project. Provide a summary of construction features, schedules and costs. |
| 1.5 | Regulatory Framework: | Provide overview of federal and provincial Acts pertaining to the regulatory approval of the project, including the *Environmental Assessment Act* and the federal/provincial harmonization agreement. If a co-operative federal/provincial review is required, outline future license/permit level authorizations needed. Advise if request for concurrent certification/permitting will be pursued. |

## GENERIC TABLE OF CONTENTS SECTION 2.0 Project Area

| Subsections | | Recommended Content |
|---|---|---|
| 2.1 | Study Region: | Define the study region and describe project location and method/criteria used for site selection. Describe any constraint pertaining to the project, such as resource availability, energy sources, markets, major physical barriers, and distance constraints. Provide general discussion on project's benefits to project area. |
| 2.2 | Alternative Location of Project: | Include brief summary of alternative location evaluation from Section 9.2.[1] |

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[1] This analysis, applying to the total project, may not be required for all projects under review. The analysis may, however, apply to parts of the project, such as an access to transmission line.

## GENERIC TABLE OF CONTENTS SECTION 3.0 Environmental Setting

| Subsections | Recommended Content |
|---|---|
| 3.1 Physiography, Geology, Natural Hazards: | Note: It is important to provide an overlay of the following features onto the project setting. |
| 3.1.1 Physiography | Describe regional/area setting. Describe key terrain features including mountains, rivers, lakes, etc. |
| 3.1.2 Infrastructure | Provide overview of infrastructure and communications (as appropriate). |
| 3.1.3 Geology | Provide general geotechnical/soils/stability information. For general projects not extracting mineral resources, provide general overview of geology. For mining projects, provide overview of geological resources and demonstrate mineral resources. |
| 3.1.4 Natural Hazards | Provide information on seismology, earthquake risk/design, avalanches, floods and other possible hazards. |
| 3.2 Climate/Meteorology: | |
| 3.2.1 Climate | Describe prevailing climate conditions and identify recording stations used for project data. |
| 3.2.2 Winds | Describe predominant wind conditions, including direction, velocity, seasonal variations, and wind roses. |
| 3.2.3 Precipitation | Provide data on area precipitation (snow, rain, fog) including volume and frequency. Identify data sources and location of sampling stations. |
| 3.2.4 Air Quality[2] | Provide information on the source, type, volume, and concentration of air emissions. Provide background on existing ambient conditions and emission loadings at project site. Provide baseline monitoring data relevant to project assessment. Define airshed boundaries and assimilative capacity characteristics. |

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[2] An air quality assessment may or may not be required, depending upon the specific site and project characteristics.

| | | | |
|---|---|---|---|
| 3.3 | Surface and Groundwater: | | |
| | 3.3.1 | Surface Water | For projects where surface water is not extensively used, or extensively utilized in a process associated with the project, the proponent may be required to supply information on summary hydrology, such as 7-day low flows and peak flows. If the water source is used in an industrial process associated with the project, extraction volumes and impact on water course should be included in the application. Describe the receiving environment. |
| | 3.3.2 | Water Quality[3] | Provide baseline and post-development information on water quality, including description of water column, and sedimentation, as well as sources, types and concentrations of effluents. Impacts of Acid Rock Drainage should be included. |
| | 3.3.3 | Ground water | Describe hydrogeology and groundwater flows and quality. If ground water resources are to be used in an industrial process associated with the project, extraction volumes and relative impact on ground water resources and water tables must be provided. Water quality data shall also be included, as well as data on water supply and information on the receiving environment. Proponents should refer to the EA Guidelines on Hydrogeology. |
| 3.4 | Aquatic Environment: | | |
| | 3.4.1 | Fish Resources | An application may include information and baseline data on: flood-plain channels and wetlands, study methods, habitat surveys, fish sampling, and results of field work, depending upon the scope of the project and the location. A detailed fish resource inventory, including major fish, shellfish, marine plant species, abundance and distribution, etc., may also be established, with recommendations for future field work and study, if required. Baseline information should be provided for each water course likely to be affected by the project and where fish habitat has been established. It is important to document critical and sensitive habitats and spawning periods, rare and endangered species and habitats, aboriginal, commercial and sport fishing activities and baseline monitoring for key populations. |
| | 3.4.2 | Benthic Invertebrates | Provide results of sampling with summary of inventory. |
| | 3.4.3 | Periphyton | Provide results of sampling and baseline data, with information on sampling sites, taxonomy, biomass, chlorophyll, etc. |

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[3] A water quality monitoring program will need to be designed specifically for the project and site, if impacting on water.

|  |  |  |  |
|---|---|---|---|
| 3.5 | Terrestrial Environment: |  |  |
|  | 3.5.1 | Bioterrain and Soils | Include terrain mapping details, soil classification, and erosion potential, if required. |
|  | 3.5.2 | Terrestrial Ecosystem Mapping (TEM) | Provide appropriate TEM, if required, after consultation with Ministry of Environment, Lands and Parks (MELP). Describe methodology and map units (ecoregions, biogeoclimatic units, ecosystem units, etc.) in accordance with agency support. |
|  | 3.5.3 | Vegetation | Provide information on study methodology, results of vegetation cover and biogeoclimatic classification, rare and endangered species, and ecological reserves. |
|  | 3.5.4 | Wildlife | Wildlife inventories may or may not be required, depending upon the project and its location. If necessary, provide inventory of terrestrial mammalian fauna, amphibians, and reptiles, including red and blue-listed species. Establish wildlife capability ratings based on habitat mapping exercise, and discuss valued ecosystem components and environmentally-sensitive areas. Include information on hunting and trapping activities. |
| 3.6 | Land Resources: |  |  |
|  | 3.6.1 | Recreation and Tourism | Provide information on park and recreation features of impacted area. Describe scenic resources and visual analysis, tourism capability and development opportunities. Describe existing and proposed protected areas, as well as any information from any Land and Resource Management Plans (LRMPs) or other land use plans completed, or in progress, in the project's area. |
|  | 3.6.2 | Forest Resources | Provide information on forest cover and forest land capability. Identify forest licencees and operations, and forest access roads. Identify any Forest Land Reserve (FLR). |
|  | 3.6.3 | Agriculture Resources | Provide information on agricultural use, Agricultural Land Reserve (ALR) designations, and soil capability, if applicable. |
|  | 3.6.4 | Mineral and Petroleum | Describe coal and mineral occurrence, potentials, and tenure claims. Describe any petroleum and natural gas reserves and leases, and aggregate and quarry resources. Discuss mining, oil and gas exploration, development and production, as well as access to resources. |
|  | 3.6.5 | General | Provide brief summary of current land use regime for Crown lands in the area and/or the relevance of any municipal *Official Community Plans*. Identify any strategic land use plans in terms of the zoning designations and resource management objectives and strategies that affect the project. (Discuss distinction between Crown land, reserve land, private lands, etc.) |

## GENERIC TABLE OF CONTENTS SECTION 4.0 Economic Setting

| Subsections | Recommended Content |
|---|---|
| 4.1 Regional and Area Economy: | Provide concise economic profile and conditions in the region, and in communities likely to be impacted. |
| 4.2 Labour Market: | Describe labour market conditions, such as unemployment and labour supply. Outline local employment and skills training opportunities from the project. |
| 4.3 Economic Trends: | Describe key economic trends in the area in the absence of the project. |
| 4.4 Infrastructure: | Provide information on transportation and other relevant infrastructure and programs in the project area. |

## GENERIC TABLE OF CONTENTS SECTION 5.0 Social Setting

| Subsections | Recommended Content |
|---|---|
| 5.1 Demography: | Provide social and demographic profile (e.g., age, sex , education), including population trends in the absence of the project. |
| 5.2 Housing: | Describe housing and accommodation supply (e.g., affordability, housing stock, diversity). |
| 5.3 Transportation and Traffic: | Describe existing vehicular, pedestrian and cycling issues. |
| 5.4 Social Support Services: | Provide brief description of existing services, such as health, education, justice, policing and fire protection. Provide information on social support services, such as family and children, counselling and emergency services. |
| 5.5 Community Stability: | Provide brief description and information on community stability, diversity, trends, etc. in the absence of the project. |

## GENERIC TABLE OF CONTENTS SECTION 6.0 Health Setting

| Subsections | Recommended Content |
|---|---|
| 6.1 Water, Waste, Sewage, Air and Noise Considerations: | Provide health setting information, such as community water supply and watersheds. Discuss any waste treatment and discharge volumes associated with the project, as well as any changes to ambient air and water quality, noise environment, etc.[4] |
| 6.2 Emergency Planning: | Provide overview information on any public risks in the project area without the impact of the project.[5] |
| 6.3 Public Health and Safety: | Provide overview information on any increased public risks resulting from the project. Indicate expected increased needs for medical services, if any. |
| 6.4 Remote camps: | Voluntary disclosure requested of plans for Foodsafe programs and recreational programs. |

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[4] Extract from previous Sections

[5] Proponent should also consult "Health Goals for British Columbia", Ministry of Health (MOH), December, 1997, and "Health Guidelines", MOH, May, 1999.

## GENERIC TABLE OF CONTENTS SECTION 7.0 Cultural/Heritage Setting

| Subsections | Recommended Content |
|---|---|
| 7.1 Archaeological Sites: | Provide an archaeological overview assessment (AOA)[6] of the project area, based on documentary research, direct consultation, and preliminary field reconnaissance where appropriate. If the project area contains recorded sites or has the potential to contain unrecorded sites (see *Archaeological Impact Assessment Guidelines, 1998* from MSBTC, Archaeology Branch), an archaeological impact assessment (AIA) may also be required. |
| 7.2 Historic Sites and Landscape Features: | Provide overview information on historic research. |

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[6] MSBTC permit required and First Nations are to be consulted prior to permit issue.

## GENERIC TABLE OF CONTENTS SECTION 8.0 First Nations Setting

| Subsections | Recommended Content |
|---|---|
| 8.1 Regional and Area Overview: | Provide a local and regional socio-economic profile of First Nations communities whose traditional territory is on or in the vicinity of the project (EAO will assist in identification). |
| 8.2 First Nations Impact Assessment: | Describe consultation program undertaken and planned (see also section 12). Provide information on interests, issues and concerns identified by First Nations through consultation undertaken with them (see 8.3 below). Describe measures to prevent or mitigate potential adverse effects (see section 11.7 below) or measures proposed to address First Nations interests. In order for the parties (the proponent, First Nations and governments) to assess potential impacts on First Nations, information may need to be provided related to: current use for traditional purpose activities (hunting, fishing, medicines, etc.); cultural, ceremonial and spiritual sites and activities; and socio-economic situations. For further information, consult the EAO *Guide to the British Columbia Environmental Assessment Process, 1995*, Appendix III. |
| 8.3 Consultation Activities: | Before an application is accepted, a proponent has to describe consultation undertaken and planned with First Nations. A detailed discussion of First Nation consultation is included in Appendix III of the EAO Guide. Establish positive relationships with First Nations as early as possible as the basis for developing a consultation program. Consultation is essential to identify the potential adverse impacts the project might have on First Nations' interests. Early consultation contributes to more acceptable and complete baseline information. The EAO will work closely with both proponents and First Nations in establishing relationships, consultation planning and information collection. Consultation contributes to the ability of the parties to arrive at mutually acceptable measures to prevent, mitigate or manage adverse project impacts. |

## GENERIC TABLE OF CONTENTS SECTION 9.0 Project Description

| Subsections | Recommended Content |
|---|---|
| 9.1 Project Rationale: | Explain the rationale for the project, including a description of target markets. Describe if the project is regulated under a provincial legislation, such as the BC *Utility Commission Act*, and describe how such an approval is/will be solicited. Confirm if government participation is required, in kind (such as infrastructure provisions) or in direct financial support/participation. In such cases, the proponent may have to include a project feasibility study separately from the application. Note: a project rationale description may not be suited for all projects. |
| 9.2 Project Location, Alternatives and Site Selection: | |
| 9.2.1 Study Region | Include brief summary of Section 2.1. |
| 9.2.2 Alternative Locations | Depending on the project, identify feasible alternatives for the project, or components of the project, within the study region based on (i) engineering and cost constraints; (ii) biophysical and land use constraints; and (iii) socio-economic/cultural-heritage constraints. Alternative locations, either for the overall project or for specific project components, should be documented in the application. |
| 9.2.3 Assessment and Comparison of Location Alternatives | The application must include a comparison of alternatives (when alternatives are feasible), based on the assessment in section 9.2.2 above. The comparison should be based on (i) technical/engineering features and constraints; (ii) environmental features and impacts; and (iii) cost estimates. The application should include a conclusion on the preferred site, based on the above assessments.[7] |

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[7] This analysis, applying to the total project, may not be required for all projects under review. The analysis may, however, apply to parts of the project, such as an access road, a transmission line etc.

| | | |
|---|---|---|
| 9.3 | Project Facilities and Design: | |
| 9.3.1 | On-site Facilities | Describe in sufficient detail, supported by plans and diagrams, the essential components and equipment of the plant or facility. The footprint of the plant, the layout of the plant, including all process/structure components must be clearly identified. Preliminary design and engineering should be described, and must include appropriate design codes and results of any site investigations to establish site parameters (such as seismicity, soil bearing capacity and water impacts). A process diagram should be included in the case of an industrial process. Information on emission and effluent control technology should be presented. The proponent should ensure that a discussion of air emissions and water discharges, and subsequent effects on air and water quality is provided in sections 3.2.4, 3.3.2, and 6.1. |
| 9.3.2 | Off-site Facilities | Similar information should be provided for any off-site facility/structure/installation required for the project, such as airports, port facilities, rail/road access, power supply/transmission, pipelines, metering stations, accommodation and warehousing. |
| 9.4 | Project Phases and Schedules: | Consideration of all impacts, monitoring programs, and mitigation efforts apply to construction, operation and abandonment phases. An Environmental Management Plan is required to address these issues in all development phases of the project. |
| 9.4.1 | Construction Phase | Describe all schedules and activities, such as for site-clearing and preparation, foundations, substation/utilities, plant/facilities and special structures, tie-ins/metering, testing and start-up. A description of waste disposal, material requirements, workers accommodation, and logistics is required. |
| 9.4.2 | Operations Phase | Describe all schedules and activities, such as process operations, maintenance, emergency procedures, waste disposal, workforce logistics, etc. |
| 9.4.3 | Decommissioning | Describe all schedules and activities relating to plant/facility removal and reclamation. |

| | | |
|---|---|---|
| 9.5 | Capital Costs: | Provide a total capital cost estimate, preferably broken down by project components. Assess sales tax impacts on total costs and describe purchasing policies with BC content requirements. |
| 9.6 | Labour Force Requirement: | Estimate total labour force requirement (direct jobs only), with category of labour for the construction, operations and decommissioning phases. |
| 9.7 | Risk Statement: | The application should include a general outline of a project Risk Statement, including risk profiles, based on plant design and operations, to the environment and the public. This Risk Statement should also include site specific safety measures, an overview of risks associated with malfunctions, accidents, spills, and potential overall risk associated with the project. |

| **Subsections** | **Recommended Content** |
|---|---|
| 10.1 Issue Assessment Methodology: | The application should outline the methodology for assessment of the environmental, economic, social, health, cultural and heritage impacts of the proposed project. The method used by the proponent must embrace the requirements of the *BC Environmental Assessment Act*, and if there is a trigger under the federal *Canadian Environmental Assessment Act*, impact assessment requirements under this Act should also be observed. It is suggested that the proponent adhere to the conceptual framework for an environmental assessment (including the wider sectors noted above) proposed by Beanland and Duinker (1983).[8] An important step in this methodology is the creation of Valued Environmental Components (VEC). The environmental assessment methodology included in the application should - in this case - contain, but not be limited to:<br>• Introduction of VECs;<br>• Definition of study area (ecological/socio-cultural/ economic/project/administrative/technical);<br>• Description of existing conditions;<br>• Definition and evaluation of the significance of residual environmental effects;<br>• Analysis and residual environmental effects prediction (i.e., determination if adverse effects/determination if adverse effects occur and whether they are significant);<br>• Description of sustainable use of renewable resources;<br>• Description of follow-up and monitoring.<br>In determining whether adverse environmental effects are significant, the methodology must provide for an assessment of potential interactions, issues and concerns, mitigation, analysis and residual environmental effects prediction, level of confidence and overall residual environmental effects rating by project development phases. |

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[8] Beanlands, G.E., and Duinker, P.N. *An Ecological Framework for Environmental Impact Assessment in Canada*. Institute for Resource and Environmental Studies, Dalhousie University, Halifax, NS and Federal Environmental Assessment Review Office, Ottawa, ON. 1983.

| | | |
|---|---|---|
| 10.2 | Issues Scoping: | The application must include the proponent's approach and coverage of issue scoping. Issue scoping should ideally lead to development of selected VECs (see Section 10.1 above) to be used in a residual environmental effects assessment. It is suggested that VECs should be considered for the six categories of major impact assessment under the BC Act (environmental/social/economic/health/cultural and heritage). The determination of significant and related matters is discussed in a FEARO document.[9] Applying these principles more generally, a proponent should consider only (i) direct changes caused by the project; (ii) the effects of these changes on health and socio-economic conditions/physical and cultural heritage/current use of land and resources for traditional purposes/any structure; site or things that are of historical/cultural significance; and (iii) changes to the project caused by the environment. The application should include the extent of consultations in appropriate issue scoping. |

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[9] *Determining Whether a Project is Likely to Cause Significant Adverse Environmental Effects*, FEARO, 1994. A reference guide to the *Canadian Environmental Assessment Act.*

| Subsections | Recommended Content |
|---|---|
| 11.1 Categories and Significance of Impacts: | This sub-section of the application should provide a summary of the assessment significance criteria discussed and developed in Section 10.0. Section 11.0 should provide an assessment based on the interactions of the projects with the VECs, which were selected as a result of issues scoping and consultations with review agencies, First Nations, and the public during pre-application consultation activities. This sub-section should further lay out the basic structure of the impact assessments and mitigation described in the subsequent parts of this section (11.0). |
| 11.2 Environment: | |
| 11.2.1 Climate/Meteorology – Air Quality | Provide information on proposed waste minimization and emission treatment strategies. Include data collection results and dispersion modelling, where required. Assess pathways and fate of air pollutants. Discuss worst-case scenario impact assessment and sensitivity analysis. Also, include summary of the project's effects relative to air quality objectives and propose mitigation measures, if required. |
| 11.2.2 Surface and Ground Water – Water Quality | Describe sources, types, volumes and concentration of effluents. Propose waste minimization and effluent treatment strategy. Provide results of any effluent dispersion modelling. Assess pathways and fate of pollutants, and assess effects relative to water quality objectives. Discuss emergency spill potential and contingency response plans. Propose mitigation measures, if required. |

| | |
|---|---|
| 11.3 Environmental Management Plan: (EMP) | The application should include an outline of an EMP for the project, to be finalized in discussion with the relevant permitting agencies before start of construction. EMPs outline the proponent's approach to project planning and the development of protection measures to mitigate potential environmental effects. EMPs are general documents which describe the environmental practices and procedures to be applied during planning, construction, and operation of the project. EMPs typically consist of :<br>• Project Description – describes facilities, activities, emissions and discharges, and proposed environmental construction and operations standards;<br>• Environmental Protection Planning (EPP) – outlines the environmental protection measures or procedures to be implemented during construction and operation. EPP identifies person(s) responsible for work and accountability to third party monitors, and usually includes monitoring programs;<br>• Environmental Management Systems – describes management practices to be employed during planning, construction, and operation of the facility;<br>• Environmental Auditing – follow-up and revisions to the EMP to ensure that the plan will be successfully implemented. |
| 11.4 Economic and Social Issues:<br>11.4.1 Economic Impact | Discuss employment opportunities (especially regarding opportunities for local residents), with information on direct employment by job category during construction and operation. Also, outline hiring policy. Outline anticipated capacity restrictions in the local community. Describe source of labour pool if not locally available, with information on special training needs/opportunities. Assess the economic impact of the project in the local community and on a regional/provincial level. Provide information on estimated capital and operating expenditures by category, as well as project revenues and sources of materials/resources. Provide any information on adverse economic impacts (e.g. on other business) and mitigation measures. Provide assessment of government revenues and costs associated with the project (federal/provincial/municipal) over the lifetime of the project. Discuss any government financial participation in the project and any adverse economic impacts (e.g. on other business) and mitigation measures. If government financial support is required, a (confidential) feasibility study of the project may be required. |

| | | |
|---|---|---|
| 11.4.2 | Social Impacts | Describe the impacts of the project on population growth, traffic congestion, community service and infrastructure, with particular attention to requirements for housing, the use of social services and their deliveries. Describe mitigation measures. Discuss any other potentially adverse social effects and how they can be mitigated. |
| 11.5 | Health Impacts: | Discuss the project's impacts on health issues and health services outlined in Section 6.0. Indicate kinds of emergencies which may occur with the project, and indicate general emergency plans in cooperation with other organizations. |
| 11.6 | Cultural and Heritage: | Discuss the project's impacts on the variables identified in Section 7.0. |
| 11.7 | First Nations: | Outline measures proposed to prevent or mitigate project-specific significant, adverse effects on First Nations interests. This should include: a description of First Nations' interests; how these were identified; proposed prevention and mitigation measures, including any benefits accruing or promised to First Nations; and the degree of acceptance of these measures by First Nations. |

| | |
|---|---|
| 11.8 Cumulative Effects | Include sufficient information to formulate a Cumulative Effects Assessment (CEA) for all changes to the environment caused by the project in combination with other past, present and known future human actions. A CEA is expected to:<br>• Assess effects over a longer period of time into the past and future;<br>• Consider effects on VECs due to interactions with other activities;<br>• Include other past, present and future (e.g., reasonably foreseeable) actions; and<br>• Evaluate significance in consideration of other than just local, direct effects.<br>CEAs typically consist of, but are not limited to, the following key steps:<br>• Scoping;<br>• Analysis of Effects;<br>• Identification of Mitigation;<br>• Evaluation of Significance;<br>• Follow-Up.<br>If the project triggers a federal environmental assessment under the CEAA, there is an operational policy statement that specifically addresses cumulative environmental effects.[10] |

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[10] OPS-EPO/3 – 1999. *Addressing Cumulative Effects under the Canadian Environmental Assessment Act*. Canadian Environmental Assessment Agency.

## SECTION 12.0 Information Distribution and Consultations

| **Subsections** | **Recommended Content** |
|---|---|
| 12.1 Initiatives Undertaken:<br>(First Nations and the Public) | Section 14 of the Act requires that the proponent's public information and consultation activities be assessed and reported on. Section 7(2)(i) to (l), inclusive, outlines the type of information requested in the application. The application must describe the proponent's efforts in distributing project material to the public, to stakeholder groups and to First Nations. Distribution and consultation can take the form of public meetings and open houses, direct meetings with interested parties, articles on the project in the written media, enclosures in community papers, interviews on local radio and television, participation in community events/fairs, etc. It is important that the proponent records and reports on public, stakeholder groups' and First Nations' responses and issues. See section 7(2) (i) and (k) of the Act. |
| 12.2 Future Program:<br>(First Nations and the Public) | In compliance with section 7(2) (j) and (l) of the Act, the proponent must describe any program of public and First Nations information distribution and consultation activities proposed during the next stages of project review under the Act. This usually includes a program following the filing of the application until the completion of the application review. Measures outlined in section 12.1 above should be considered. |

| Subsections | Recommended Content |
|---|---|
| 13.1 Government Consultation: | The application should contain a detailed record of consultation with federal, provincial, regional, and municipal government representatives, as per section 7(2)(m) of the Act. This will also include "neighbouring jurisdictions" (bordering to the province), on projects in such locations that it may effect out-of-province territories. All issues discussed and any issues resolved should be properly documented. Reference is also made to records established as discussed in section 11.0. |

**GENERIC TABLE OF CONTENTS** **SECTION 14.0** **References**

| Subsections | Recommended Content |
|---|---|
| None | Provide all references to documents quoted in the application. List references to consultation meetings with the public and First Nations. Include records of meetings and discussion topics/ agreement with review agencies prior to filing application. Provide a list of all enclosures (i.e., appendices) in the application. |

APPENDIX 1

## APPLICATION TABLE OF CONTENTS CROSS REFERENCE TO REQUIREMENTS UNDER SECTION 7(2) OF THE EA ACT

## I. PROJECT

### A. PROJECT DESCRIPTION

| Information Description | EA Act Provision | Section in TOC |
|---|---|---|
| Identification of proponent and particulars | Section 7(2) | 1.1 |
| Project description outlining major components | Section 7(2)(a) | 1.2, 1.4, 9.2, 9.5 |
| On and offsite facilities | Section 7(2)(c) | 1.4, 9.3 |
| Construction plan and timetable | Section 7(2)(d) | 9.4 |
| Expansion needed to public works | Section 7(2)(e) | 4.4 |

### B. PROJECT PURPOSE

| Information Description | EA Act Provision | Section in TOC |
|---|---|---|
| Describe the need or demand the project will fill: | Section 7(2)(a) | 1.3, 9.1 |
| • Include any discussion of justification requirements relevant to each sector; | As above | 2.1, 9.2 |
| • This could include an alternatives analysis. | | |

### C. LEGISLATIVE AND POLICY CONTEXT FOR PROJECT

| Information Description | EA Act Provision | Section in TOC |
|---|---|---|
| Describe any land use plans completed and relevant to the project area. | Section 7(2)(h) | 1.5, 2.2, 3.6 |
| Outline to the best of the ability of the proponent whether there is an expectation of a CEAA trigger. | Bilateral Agreement | 1.5 |
| Describe any emergency plans in effect for project area and site, and outline the lead agencies for these (this is not a mandatory section 7 requirement, but can be useful to eventually achieving CEAA requirements if relevant and providing early information often requested by public). | None | 3.1, 9.8 |
| Describe approvals required of proponent in addition to the project approval certificate, prior to the project being operational. This is technically not an application requirement, but all proponents will find value from this. | None | 1.5 |

# II. EFFECTS IDENTIFICATION AND ASSESSMENT

## A. EXISTING INFORMATION AND SETTING

| Information Description | EA Act Provisions | Section in TOC |
|---|---|---|
| Describe the current situation regarding the following effects: | Section 7(2)(b) | |
| Environmental | | 3.0 |
| Economic | | 4.0 |
| Social | | 5.0 |
| Health | | 6.0 |
| Cultural | | 7.0 |
| Heritage | | 7.0 |
| First Nations | | 8.0 |

## B. IDENTIFY ISSUES AND POTENTIAL EFFECTS OF PROJECT

| Information Description | EA Act Provision | Section in TOC |
|---|---|---|
| Identify the issues associated with the project. | Section 7(2)(m) | 10.2 |
| Describe the potential effects of the project relying on the categories listed above; include the methodology used to make predictions. | Section 7(2)(f) | 10.1, 11.0 |
| Rate the significance of the predicted effects. | Directed by Section 19 test | 11.1, 9.8 |
| Undertake an assessment of the cumulative effects if it appears necessary to meet the needs of the CEAA. | Bilateral Agreement | 11.1, 11.2 |

## C. MITIGATION MEASURES AND MONITORING

| Information Description | EA Act Provision | Section in TOC |
|---|---|---|
| Based on the assessment in B above, and on a categorization of the effects, describe the proposals to reduce adverse effects. This may require consideration of options. | Section 7(2)(m) | 11.2, 11.3, 9.2 |
| Include description of existing emergency planning context, if relevant and not covered under Part I-C above and consider emergency measures needed at site. | Bilateral | 11.0 (topically) |

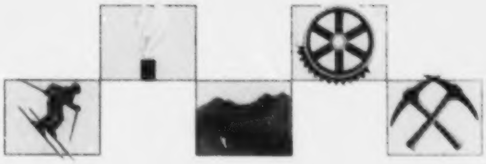
## III. INFORMATION DISTRIBUTION AND CONSULTATIONS

| Information Description | EA Act Provision | Section in TOC |
|---|---|---|
| Provide notification and information to the public from an early stage in the planning and ensure public input into the identification and resolution of concerns and issues. | Section 7(2) i) and (j) | 12.1, 12.2 |
| Ibid, pertaining to identified First Nations in the project area. | Section 7(2)(k) and (l) | 12.1, 12.2<br>Also see 7.0 |
| Provide information on discussions undertaken with ministries or agencies of the BC government about the effects of the project. | Section 7(2)(m) and (n) | 13.0 |

ENVIRONMENTAL ASSESSMENT OFFICE

# APPENDIX 5

# GUIDELINES FOR PROPONENTS ON CONSULTING THE PUBLIC IN THE ENVIRONMENTAL ASSESSMENT PROCESS



BRITISH
COLUMBIA

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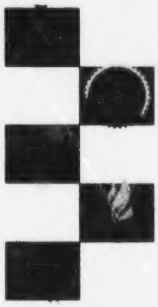

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# GLOSSARY OF TERMS

**Act** — British Columbia *Environmental Assessment Act.*

**Application** — an application for a project approval certificate that is filed by a proponent in accordance with section 7 of the Act.

**Application Guidelines** — Guidelines for the Preparation of an Application for a Project Approval Certificate.

**Baseline Monitoring** — the process of collecting information on biophysical or socio-economic conditions at the site or in the vicinity of a proposed project, to enable a determination of project effects through before and after comparisons.

**Chair** — the Environmental Assessment Office Project Assessment Director delegated authority to chair a project committee and generally oversee all aspects of a project review.

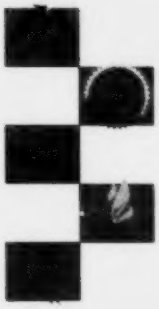
**Comments** — the formal response, advice and informed opinion about a project submitted to the Project Committee Chair.

**Environmental Assessment (EA)** — environmental assessment is a project planning tool and information gathering process. It measures the potential impact of proposed projects and identifies ways to avoid, mitigate or compensate potential impacts.

**Environmental Assessment Office (EAO)** — the provincial organization that is responsible for administration of the Act and regulations.

**Executive Director** — the government official appointed to oversee all aspects of EAO operations. The Executive Director is the Deputy Minister of the EAO.

**First Nations** — an aboriginal governing body or bodies, however organized and established by aboriginal people within their traditional territory in British Columbia.



**Issues** — an identified concern, question or indication of support regarding potential effects of a proposed project.

**Mitigation** — measures for controlling, reducing or eliminating an adverse impact of a development on the environment or community, including restorative measures.

**Minister** — the Minister of Environment, Lands and Parks.

**Ministers** — the Minister of Environment, Lands and Parks, and the Responsible Minister.

**Permit Review** — review processes associated with approvals required under various statutes for the project design, construction, start-up of operations, or access to Crown land. Permit reviews normally require detailed information relating to the design of project infrastructure and facilities, and of proposed operational practices. Detailed analysis and assessment of this information by agencies is necessary prior to the issuance of approvals, permits or tenures, as the case may be, by individual regulatory agencies.

**Post-certification Issue** — issues which are reviewed during the regular permitting/approval review processes.

**Project Approval Certificate** — a certificate issued under the Act which allows a proponent to proceed with applications for any necessary project development permits and approvals.

**Project Assessment Director** — the government official delegated authority to chair a project committee and generally oversee all aspects of a project review.

**Project Committee** — the committee of representatives of provincial agencies, federal agencies, local governments, First Nations and neighbouring jurisdictions that reviews an application and, if necessary, a project report. The report prepared by the project committee chair in consultation with the project committee.

**Project Committee Recommendations Report** — a report to Ministers summarizes the application and/or project report review and includes recommendations.

**Project Report** — the report submitted by the proponent to resolve issues that were not sufficiently addressed during the review of the application.

**Project Report Specifications** — the terms of reference that are provided to the proponent for preparing a project report.

**Proponent** — any person that proposes to undertake a reviewable project in British Columbia, including the government of Canada, British Columbia, First Nations, a company, a municipality, a regional district, another province or another jurisdiction.

**Public Advisory Committee** — a committee comprised of members of the public that may be established to provide advice and recommendations to a project committee.

**Project Committee Member** — a member of a project committee who participates directly in committee proceedings.

**Regulations** — the regulations that are in effect pursuant to the *Environmental Assessment Act*, namely the Reviewable Projects Regulation and the Prescribed Time Limits Regulation.

**Responsible Minister** — the Minister designated by Cabinet who shares decision-making authority with respect to project approval with the Minister of Environment, Lands and Parks. The Responsible Minister is usually the Minister with key programming or regulatory responsibility for the project sector.

**Review Agency** — an agency or organization that receives and comments on project review documentation (but is not represented by a regular project committee member).

**Screening** — the process for determining whether or not an application or a project report is accepted for EA review by the Executive Director.

**Technical Advisor** — a representative of an agency or organization, or a consultant hired by an agency or organization, who supplies expertise on particular assessment topics to the project committee member or review agency with whom he/she is associated.

# COMMONLY USED ABBREVIATIONS

| | |
|---|---|
| **CEAA** | Canadian Environmental Assessment Act |
| **EA** | Environmental Assessment |
| **EA Board** | Environmental Assessment Board |
| **EAO** | Environmental Assessment Office |
| **MELP** | Ministry of Environment, Lands and Parks |
| **RA** | Responsible Authority under the Canadian Environmental Assessment Act |

# 1.0 INTRODUCTION

BC's *Environmental Assessment Act* (the Act) establishes the environmental assessment (EA) process. A key feature of the EA process is the legislated responsibilities and opportunities relating to public participation in the review of proposed projects. Public participation in EA reviews is accomplished by providing the public with notification, information and an opportunity to comment on project proposals, and providing for early and ongoing meaningful consultation by the proponent and the Environmental Assessment Office (EAO) to identify issues and resolve public concerns. The Act requires that project reviewers consider public comment when formulating recommendations for government decision-making.

This Guideline provides advice to proponents of projects subject to EA review on how to conduct effective consultation. It should be read in conjunction with the *Guide to the British Columbia Environmental Assessment Process* (the Guide), which provides a detailed overview of the EA process.

In this Guideline, the term "public" refers to the public at large, including individuals, community organizations, and special interest groups (e.g., business, environmental, outdoor recreation, trade, and women's groups). Information on Aboriginal issues and consultation is provided in Part D of the Guide.

# 2.0 GOALS OF PUBLIC PARTICIPATION

Public participation in the EA process is intended to improve project design and decision-making processes by ensuring that community perspectives and issues about a project are known before the project proceeds to development. Public participation in an EA review:

- ensures that public concerns and community values are identified so that they may be adequately addressed in the review;
- provides useful local information and knowledge for completing the required impact assessment studies;
- improves overall community and public understanding of the project;
- prepares local communities and residents for managing the social, economic and land use impacts of a project;
- prepares interested workers and suppliers for training, employment and business opportunities related to the project;
- helps proponents to develop options to enhance positive effects and prevent or mitigate the adverse effects of a project; and

- enables more comprehensive information being compiled about a project proposal for government decision-making.

## 2.1 GUIDING PRINCIPLES FOR PUBLIC CONSULTATION

The goals of public participation are more readily attained when the following public consultation principles are followed:

- early identification and contact with the full range of individuals and groups who will want to be involved in project planning, before irrevocable decisions are made;
- providing the public with enough time to respond meaningfully;
- tailoring participation strategies to gain effective public input at each stage of the review process, beginning with the pre-application phase;
- two-way communication which promotes understanding and problem-solving; and
- on-going consultation and follow-up regarding issues.

# 3.0 PUBLIC PARTICIPATION IN THE BC ENVIRONMENTAL ASSESSMENT PROCESS

## 3.1 OVERVIEW

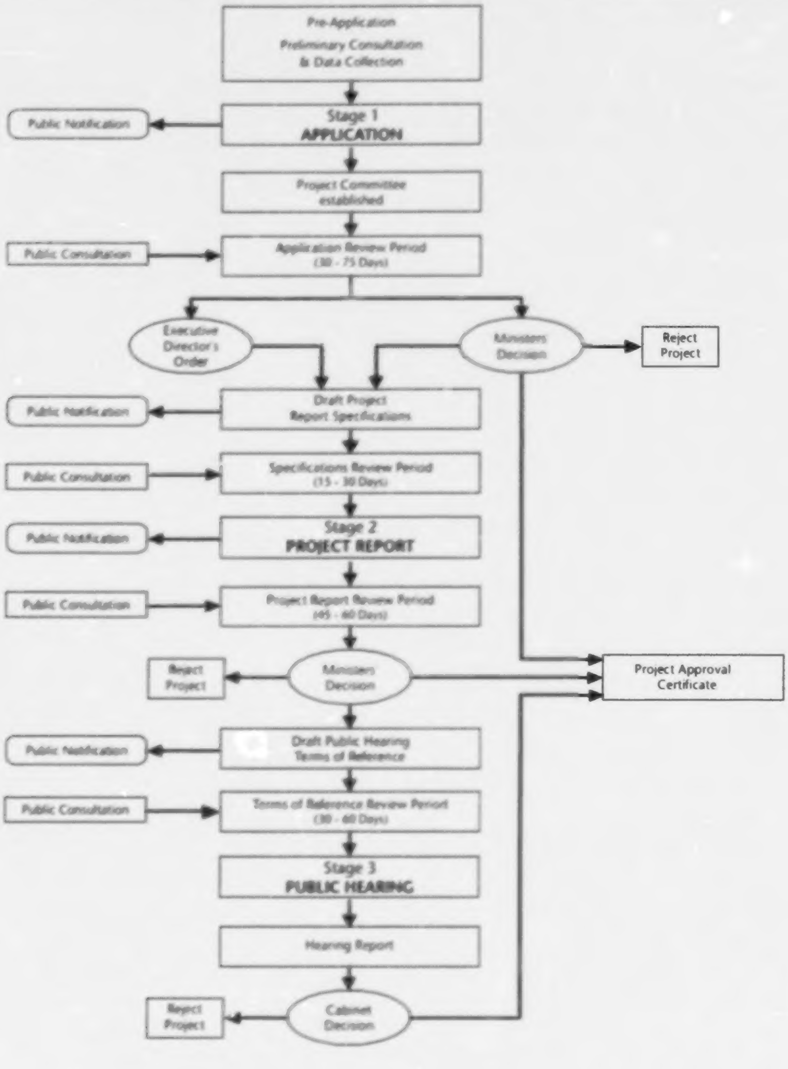
Throughout the EA process, both the proponent and the EAO have responsibilities in relation to public participation. Figure 1 shows the major stages in the EA process, the notification requirements, and the opportunities for public input at each stage. Proponent-led consultation is an on-going requirement throughout the EA process and is assessed during the application and project report review stages.

Effective public participation in EA requires good communication: the proponent provides comprehensive information about a project proposal, the EAO ensures notification, availability of information, opportunity to comment, and consideration of public comment by the project committee; and the public, in turn, shares its ideas, questions and concerns about the potential impacts of the proposal.

Consultation begins at the pre-application stage with the proponent making preliminary contacts and beginning initial consultation. After the proponent submits an application for a project approval certificate (the application), specific public notification and consultation requirements for the proponent and EAO apply with respect to:

- the application;
- the draft project report specifications (if required);
- the project report (if required); and
- the draft terms of reference for a public hearing (if required).

**Figure 1: Overview of the EA Process**


Pre-Application
Preliminary Consultation & Data Collection
Public Notification
Stage 1 APPLICATION
Project Committee established
Public Consultation
Application Review Period (30 - 75 Days)
Executive Director's Order
Ministers Decision
Reject Project
Public Notification
Draft Project Report Specifications
Public Consultation
Specifications Review Period (15 - 30 Days)
Public Notification
Stage 2 PROJECT REPORT
Public Consultation
Project Report Review Period (45 - 60 Days)
Reject Project
Ministers Decision
Project Approval Certificate
Public Notification
Draft Public Hearing Terms of Reference
Public Consultation
Terms of Reference Review Period (30 - 60 Days)
Stage 3 PUBLIC HEARING
Hearing Report
Reject Project
Cabinet Decision

## 3.2 SUMMARY OF PUBLIC NOTIFICATION RESPONSIBILITIES

The EAO places all notices with respect to each stage of the review process on the Project Registry; sends letters of notification regarding reviews of the application, project report specifications and the project report to parties on the project public notification list; and ensures that notices are advertised in newspapers.

Table 1 provides a synopsis of the responsibilities of the proponent and the EAO, specific to notification. See section 6.4 of this Guideline for details and examples of advertising requirements.

**Table 1: Public Notification Requirements in the EA Review**

| Notice Type | **Proponent Responsibility** | **EAO Responsibility** |
|---|---|---|
| **Notice of an Application** | Proponent advertises notice as required by the EAO as soon as practicable (e.g., a week) after submitting copies of the application. Further notification requirements may be prescribed. | Notification placed on the Project Registry within seven days after receiving copies of the application. |
| **Notice of an Amendment to an Application** | As required by the Executive Director. | Place on the Project Registry within seven days:<br>• any request by the proponent to amend the application, and<br>• the decision made in response to the request. |
| **Notice of Draft Project Report Specifications** | Not applicable. | EAO advertises notice. Notification placed on the Project Registry within seven days after issuing the draft project report specifications. |
| **Notice of a Project Report** | Proponent advertises notice as required by the EAO as soon as practicable (e.g., a week) after submitting copies of the project report. Further notification requirements may be prescribed. | Notification placed on the Project Registry within seven days after receiving copies of the project report. |
| **Notice of Draft Terms of Reference for a Public Hearing** | Not applicable. | EAO advertises notices. Notification placed on the Project Registry. |

## 3.3 SUMMARY OF THE EAO'S PUBLIC CONSULTATION RESPONSIBILITIES

The EAO is responsible for ensuring that the public is notified of project assessments (see section 3.2 above), making project information available for public review, providing public comment periods, documenting identification of issues, giving the proponent an opportunity to respond to comments received during a review, and ensuring that the project committee considers all public comment in formulating its project recommendations. As well, the EAO is responsible for assessing the proponent's public consultation programs, and ensuring that all public participation requirements are fulfilled before an application is referred to Ministers.

The EAO provides direction to proponents on consultation requirements, evaluates and monitors their consultation program, and provides information to the public about consultation opportunities throughout the process. In some cases, the EAO may directly undertake public consultation, either alone or jointly with the proponent, to assist in identifying and addressing public issues. The EAO may host public workshops or other forums in order to facilitate public consideration of technical issues.

## 3.4 SUMMARY OF THE PROPONENT'S CONSULTATION RESPONSIBILITIES

A proponent is responsible for ensuring that the required public notices are properly advertised, that there is an adequate distribution of information to the public, and that it engages in meaningful public consultation throughout the EA review. The proponent is expected to undertake consultation with the public to identify issues, respond to concerns and work with the project committee to resolve issues.

Meaningful public consultation requires that proponents be prepared to expend both time and money. For public participation to be a genuine two-way communication, the proponent must be prepared to respond to public concerns and issues in a timely manner. A proponent's response to public consultation may include altering the project design and priorities or adjusting the planning schedule.

The proponent provides a full report on the consultations undertaken in preparation of the application, and the project report if one is required. The proponent also provides a listing (separate from the application or project report) identifying any public contacts. These contacts are added to the public notification list maintained by the EAO for the project.

The proponent provides information and cooperates with the EAO, the project committee, Public Advisory Committee (if any) and where relevant, the EA Board in their efforts to address public issues and concerns.

# 4.0 DETAILS ON PUBLIC PARTICIPATION RESPONSIBILITIES FOR EACH STAGE OF THE REVIEW PROCESS

## 4.1 PRE-APPLICATION

The EAO strongly encourages proponents to undertake early and effective notification and consultation with the public prior to submission of the application. Efforts at the pre-application stage should focus on identifying the key members of the public who should be consulted, holding preliminary discussions on the project concept with key contacts, and gaining insights about potential issues regarding the project. Discussions with the community and broader public at this stage of the project design will enable the proponent to identify community issues and values, and consider how these can be taken into account when finalizing the project concept.

Pre-application consultation could take the form of information sessions or open houses. Information sessions should be advertised by the proponent (e.g., in local papers, on local radio stations) at least two weeks prior to the event. Invitations should also be sent to the known stakeholder groups in the community. Available project information and a preliminary project overview should be provided at the information sessions. Proponents may wish to state the status of the project design (e.g., conceptual and preliminary or firm and detailed) in their information package.

The contacts made and information obtained during the pre-application stage may assist in defining the geographic area for subsequent notification and consultation. Pre-application contacts may also help to confirm appropriate consultation methods, venues and schedules for interested communities. The EAO is available to advise and assist proponents with initial contacts and the development of consultation plans.

**FOR EXAMPLE...**
By meeting with community members and holding open houses where the project was being proposed, a proponent learned about the community's sensitivity to one of the proposed locations for a mill site. As a result, the proponent was able to propose an alternative site that was far more acceptable to the community and would not adversely impact the promotion of local tourism.

**FOR EXAMPLE...**
A proponent was under considerable time constraints to have the project up and running in order to meet the requirements of key potential clients. Though recognizing a one-stage review could not be assured, the proponent nonetheless made full effort to meet in advance with the EAO and appropriate agencies in order to make the application, including impact assessment work, as complete as possible.

## 4.2 PREPARING THE APPLICATION

The application should include:

- a summary of any information and consultation activities conducted during the pre-application stage, indicating the number of people attending meetings, the stakeholder groups participating, the public's response to the project, and the issues they identified; and
- plans for future consultation activities and their timing.

The proponent should provide, separate from the application, an up-to-date mailing list of all agency/public contacts and the addresses of neighbouring landowners and businesses (contact the Registrar at the Project Registry for formatting specifications).

## 4.3 STAGE 1: APPLICATION REVIEW

### 4.3.1 NOTIFICATION/ADVERTISING

Once the EAO accepts an application for a project approval certificate, the public is formally notified of the application review and invited to provide comments by a set date. The time limit for input is determined by the EAO according to the Prescribed Time Limits Regulation, which allows between 30 and 75 days for public comments. The public comment period for an application will be established by the EAO after taking into account anticipated public interest, extent of pre-application consultation and other factors such as the proposed construction schedule.

The EAO and the proponent undertake notification. The intent of notification is to reach individuals who may want to participate in the review or may be affected in some way by the project, including but not limited to, residents of the community in which the project is located and residents of adjacent communities.

The proponent is responsible for advertising the availability of the application for comment, and for implementing any further notification procedures indicated by the EAO, such as flyers and signs posted in public places. Details of the proposed advertising plans should accompany the application, since there will be a relatively short time frame for arranging advertising once the application has been accepted for review by the EAO.

Ideally, advertisements will be initially published in daily newspapers during the week following submission of copies of the application to the EAO. Advertising should be arranged in the newspapers most likely to be read by the target audience. This may include a widely distributed newspaper (e.g., *Vancouver Sun*, V*ancouver Province*, or *Victoria Times Colonist*), as well as local and special interest newspapers. The notice should appear in at least two issues of the paper to increase the likelihood of the target audience seeing the advertisement. The advertised notice informs the public about the application, the location of a reference copy of the application, the deadline for submitting comments, and the address to which public comments should be sent. Refer to section 6.4 of this Guideline for advertising specifications. Other forms of media may also be used, such as local radio or television.

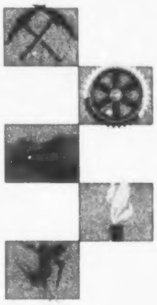
The proponent should send the EAO a copy of the full page in which the ad appeared within two weeks of publication.

### 4.3.2 CONSULTATION

Proponents should be prepared to present the project proposal to various community and public interest groups during the application review stage, and to address the initial public response to the project. If necessary, more in-depth discussions may then be undertaken through workshops and other methods that enable ongoing dialogue with the public. Information sessions may generate a series of issues that may require further discussion and follow-up by the proponent. Refer to section 5 of these Guidelines for a description of various consultation techniques, and an explanation of issue documentation.

**FOR EXAMPLE...**

Unique issues requiring mitigation may be raised during public consultation in an EA review. To avoid a potential shortage of tourist accommodation caused by an influx of project workers, one proponent undertook significant research and consultation with local chambers of commerce and tourism associations to minimize impacts on the summer tourist season.



### 4.3.3 ASSESSMENT OF THE ADEQUACY OF CONSULTATION

The EAO, in consultation with the project committee, evaluates the proponent's consultation plan as set out in the application. The EAO advises the proponent of any additional measures for distribution of information and public consultation deemed necessary to meet the public participation requirements established for the EA process. These might include, for example, further advertising of the application, wider distribution of copies of the application to additional specified stakeholder groups, and provision of additional information or other special consultation measures.

Following assessment of the proponent's proposed consultation program, the Executive Director may direct that the proponent conduct, or that the EAO carry out on the proponent's behalf, additional public consultation measures. The costs related to these consultation activities are the responsibility of the proponent; however, the Executive Director may arrange for some sharing of expenses between the proponent and the EAO, for example where the activities are jointly sponsored.

The EAO cannot complete its review of an application or make recommendations to Ministers regarding the issuance of a project approval certificate until the proponent has completed the information or consultation activities which comprise the approved consultation program.

### 4.3.4 PROPONENT RESPONSE TO CONSULTATION ISSUES

Public comments received by the EAO during the public comment period are filed on the Project Registry. Following the public review period, the proponent will be provided with the comments submitted to the EAO and will have a brief opportunity to provide a written reply. The proponent should submit the response in a timely manner so that the project committee is able to take the proponent's response to comments (if any) into consideration within the time allotted to complete the application review.

## 4.4 AMENDMENTS TO THE APPLICATION

Where a proponent wishes to make substantive changes to a project than was initially documented in the application, a request to amend the application must be made to the EAO. The Executive Director, on recommendation of the project committee, may order the application for amendments be accepted. The Executive Director may require additional public notification measures (e.g., advertising by the proponent) or extend the public comment period to ensure adequate opportunity for review of the intended changes.

## 4.5 PROJECT REPORT SPECIFICATIONS

Where a project proceeds to the project report stage (stage 2), the EAO prepares draft project report specifications, identifying the issues to be addressed by the proponent in its detailed project report. The EAO advertises and provides notice of the draft specifications, inviting public comments within a set period of between 15 and 30 days. The proponent will have an opportunity to respond to comments on the project report specifications.

## 4.6 PREPARING THE PROJECT REPORT

Proponents are required to undertake appropriate consultation in preparation of the project report. At this point, consultation should focus on clarifying and resolving specific issues that remain outstanding after the application review. Proponents should be prepared to present the project proposal to various community and public interest groups, and to address the public response.

In addition to meeting the information requirements set out in the project report specifications, the project report should include:

- a summary of the information and consultation activities conducted to date, indicating the number of people attending meetings, a list of participating stakeholder groups, the issues raised with respect to the effects of the project, the proponent's response to any issues raised; and
- plans for future consultation activities and their timing.

As with the application, the proponent should provide, separate from the project report, an up-to-date mailing list of all agency/public contacts and the addresses of neighbouring landowners and businesses (contact the Registrar at the Project Registry for formatting specifications).

## 4.7 STAGE 2: PROJECT REPORT REVIEW

Once the project report is submitted to the EAO and accepted for review, the public is formally notified of the project report review and invited to provide comment by a set date. The time limit for input is determined by the EAO according to the Prescribed Time Limits Regulation, which allows between 45 and 60 days for public comment.

The proponent's obligations regarding advertising and consultation of the project report are the same as those for the application, as is the process for assessing the adequacy of consultation at the project report review stage and proponent response. See section 4.3 of these Guidelines.

## 4.8 STAGE 3: PUBLIC HEARING

Ministers may require that a project proceed to a public hearing. If referred to stage 3, draft terms of reference for the hearing are prepared by the Minister and the Responsible Minister.

### 4.8.1 NOTIFICATION

The EAO distributes notification about the draft terms of reference for the public hearing to the public and invites comment by a set period of between 30 and 60 days. This input is taken into account in finalizing the terms of reference for the hearing. Once the terms of reference have been finalized and placed on the Project Registry, the EA Board will issue a notice of public hearing that is also placed on the Project Registry and advertised in newspapers.

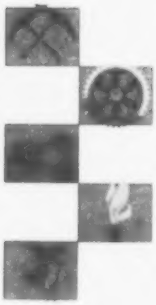
### 4.8.2 PARTICIPATION IN THE PUBLIC HEARING

During the hearing, the public, the proponent, and expert witnesses may present submissions and briefs. The proponent should be prepared to address the issues raised in the terms of reference. It is not anticipated that the proponent would conduct any formal consultations at this point in the review process.

## 4.9 POST CERTIFICATION

Once a project approval certificate is issued, the EA process is concluded. However, proponents are encouraged to maintain the community contacts established through the EA process to keep local residents and concerned citizens apprised of project activities.

Proponents may want to consider establishing a post-EA certification liaison committee and scheduling regular, periodic meetings, to ensure that the transition from planning to construction and project implementation is managed effectively. Such a committee could also provide a forum to ensure that ongoing community interests are considered as the project proceeds.



**FOR EXAMPLE...**

A public access management committee involving the proponent, government agencies, community stakeholders and First Nations was established for a northern mine project. The committee advises on matters of management and control in the project area regarding access to sensitive fish and wildlife populations.

**FOR EXAMPLE...**
An environmental monitoring and public liaison committee, comprising local residents, First Nations, local government, and environmental stakeholder groups was established for a mine project. Key government agencies and the proponent participated in this committee which provided a forum to keep the local public and First Nations informed about the results of environmental monitoring during project development, and to obtain feedback.

# 5.0 TOOLBOX OF PUBLIC INFORMATION AND CONSULTATION APPROACHES

## 5.1 APPROACHES TO PUBLIC CONSULTATION

This section provides an overview of approaches to public information and consultation methods that maybe appropriate for EA reviews. Further details on some of the consultation methods noted here are provided in section 6 of these Guidelines.

Good public consultation emphasizes two-way dialogue, respect for different views, and finding a mutual basis for resolving concerns. Many different techniques can be used for distributing information to, and consulting with, the public. The main approaches are summarized into three different categories, as below. Each category is progressively more direct and interactive. A proponent's public consultation program may contain elements of all three categories.

**Information Dissemination** — the proponent should make detailed information about the project proposal available to the public. This information should be easily accessible and widely available. When providing general notices and information, details for obtaining further information should be clearly advertised.

Some examples of methods for providing public information include:

- brochures
- exhibits/displays in public locations
- media notices and information kits
- advertising in provincial, local and special interest newspapers
- newsletters
- website

**Direct Consultation** — the proponent is encouraged to notify those individuals with a direct interest in the project, and give them an opportunity to provide feedback on the project proposal. Those with a direct interest could include local community groups and potentially affected residents, although those who have a direct interest will vary in every case. Providing opportunities for feedback is important to ensure that information has been received and understood. Some examples of direct consultation include:

- public information open houses
- survey questionnaires (web/mail)
- phone lines
- television/radio call in programs
- interviews
- project specific mailing lists

**Face to Face Direct Consultation** — it is important that the proponent provide opportunities to discuss the project with concerned members of the public directly, and face to face. Personal exchanges help to clarify the interests of the group and the basis for their support and/or concerns about a project. Such consultation gives the proponent an opportunity to ensure that the details of the development proposal are correctly understood. Planned meetings or sessions at which people can meet and speak with the proponent will help the public to put a "face" to the project. Some examples include:

- public meetings/panels
- workshops (structured/unstructured)
- focus groups
- field offices/staff
- interviews
- mediation and negotiation
- personal exchanges

## 5.2 TIPS FOR CONDUCTING A PUBLIC CONSULTATION PROGRAM

There are a number of key concepts which should be kept in mind when developing a public consultation program. These are:

**Provide Comprehensive and Accessible Information** — do not assume that the public is already knowledgeable about the project proposal. Information presented should be comprehensive and designed to inform members of the public with different levels of knowledge. Technical studies and reports should include easy-to-understand summaries.

**Consult Early** — make sure that your public consultation program is arranged to enable community views to be considered during the project design stage. A proactive and committed proponent will work to resolve issues early. Early issue identification and resolution will improve public acceptance of a proposal.

**Identify a Spokesperson and Be Available** — members of the public will want to put a face to the project. The best way to do this is to designate a spokesperson to act as the first point of contact for those interested in the proposal. Encourage the public to communicate its support for a proposal, as well as its questions, concerns and issues.

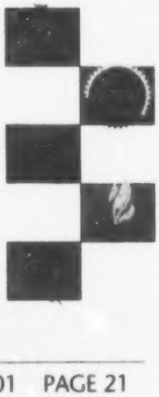
**Be Flexible** — be prepared to adjust your process and timing to respond to public issues. Proponents are advised to err on the side of holding 'one more meeting' to ensure that the public understands the proposal.

**Be Objective** — make sure that when you present information about the project, particularly in print or broadcast media that your focus is to inform the public about the project, not to promote the project. Material should be worded in a value-free, objective manner.

**Be Transparent** — a demonstrated commitment to a fair and open process will enhance credibility. Adequate public meetings, and transparent issue resolution processes will also contribute to this credibility.

**Be Neutral** — there are effective ways of ensuring impartiality in the consultation process. Neutral, third party consultants are often used in public consultation, and are effective at focusing discussions about a proposal.

**Be Inclusive** — involving stakeholders in issue resolution will build trust within the community; they will know that their interests are taken seriously, and will feel that they are providing meaningful input into decisions that will affect them.



By permitting and promoting feedback, you will have a better sense of the level and quality of information available about your project.

## 5.3 ISSUE IDENTIFICATION PROCEDURES

The EAO may keep track of issues raised by the public, First Nations and other government agencies. Issue identification documentation may be posted on the Project Registry and satellite repositories. The minutes of project committee meetings may also provide this information and are also made available on the Project Registry as the review proceeds.

Issues that are recorded may originate from a variety of sources, including:

- pre-application discussions and any ensuing correspondence between proponents, government agencies, the public and First Nations that are facilitated by the EAO;
- written comments including, where appropriate, comments respecting process management from government agencies, the public and First Nations on applications and project reports, and ancillary submissions from proponents;
- analysis and advice by individual project committee members as recorded by the EAO during project committee meetings, and any follow-up communications where further attention is needed;
- public and First Nations comments recorded by the proponent/EAO at public consultation sessions (e.g., open houses); and
- proponent responses to comments (if any).

## 5.4 CONSULTATION RELATING TO COMMUNITY VALUES AND PUBLIC OPINION

Public consultation can provide specific information on community values in the immediate vicinity of the project, and an indication of the level of public support for the project. The proponent's consultation plan should describe how the community will be consulted during the project assessment and may include specific techniques for identifying and recording the results of consultation regarding community values and public support. Results of this consultation should be included in the application.

The following specific questions relating to the public living in the vicinity of the project may be helpful in focusing public consultation on issues regarding community values and public opinion.

- Is the proposal consistent with lifestyles in the community?

- Is the proposal going to alter the size or composition of the community? (e.g., influx of new residents; people with different value systems; and shift from rural to industrial)
- Is the community flexible and open to change? (e.g., is it a growing or evolving community? Does it have very traditional values?)
- What has the proponent done to ensure that the project is consistent with community values?

## 6.0 DETAILS ON SELECTED CONSULTATION METHODS

## 6.1 INFORMATION DISSEMINATION

### 6.1.1 PUBLICATIONS

Publications concerning the project may range from lengthy documents on specific aspects of a project, to general information brochures, fact sheets or newsletters. They may serve a number of purposes:

- present facts, discuss issues, and propose alternatives;
- provide the results of studies; and
- provide status reports and updates on the project.

In addition, publications may be used to solicit feedback, for example by incorporating a return section for comments.

### 6.1.2 MEDIA

For most projects, the emphasis will be on providing information to local communities, affected individuals and interest groups. When planning a public information session, consideration should be given to preparing news releases for the local radio and print media — one to be given before the meeting; a second to be given following the meeting.

Regular press releases describing progress with respect to engineering studies, impact assessment reports, and public consultation may be appropriate, especially for the communities that will be most affected.

Media interviews given by a company spokesperson before a public information session may also be an effective way to inform the public and generate interest in attending the session. Where public concerns are reported in the media, the proponent should consider providing that media outlet with a technical response or clarification for publication.

**FOR EXAMPLE…**
In one review, a proponent presented information about the project in a four-page colour publication inserted in the weekend newspaper. This ensured broad distribution and high visibility so that the public was well aware of the project.

### 6.1.3 INTERNET

A project website is a good place to post up-to-date information about the proposal, including recent press releases and the results of studies being conducted in relation to a project. An interactive website could allow proponents to initiate surveys, and questionnaires, and invite comments on the proposal. It could also link to the EAO website. However, proponents should be aware that websites are not a substitute for more traditional models of consultation, as not all members of the public have access to the internet.

## 6.2 DIRECT AND FACE-TO-FACE CONSULTATION

The specific method selected for direct and face-to-face consultation will depend on the purpose of the session. Section 6.3 describes some direct consultation techniques; this description is not exhaustive, and proponents are encouraged to discuss their consultation programs with the EAO.

Whatever consultation technique is used, the effectiveness of the session will be enhanced by:

- appropriate and timely advertising;
- a suitable and accessible location with appropriate amenities;
- scheduling which is convenient for the target audience and will allow for good public attendance;
- the availability of easy-to-read project information (e.g., brochures, information sheets);
- a well-prepared resource group which is able to address questions (e.g., knowledgeable company spokespeople and technical staff, representatives of the project committee or government agencies);
- presentations which are supplemented by visual aids such as slides or overheads;
- maximum opportunities for questions from the public to be addressed;
- presentation of material in a neutral, objective manner; and

- good organization – format, agenda, chair determined before the meeting, etc.

The proponent should respond directly to members of the public expressing concern about a proposal, and where possible, meet with them to discuss their questions and concerns.

## 6.3 CHARACTERISTICS OF DIRECT CONSULTATION TECHNIQUES

**Open House**

**Purpose**

- Provides an informal setting for the public to drop in to obtain information at their leisure, and for the proponent to provide information about the project and receive feedback.

**Format**

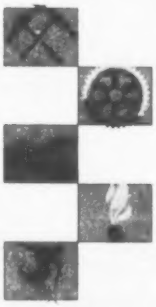
- Typically, an open house consists of a display complemented by handout materials. Representatives of the proponent are available to meet with people and answer questions one-on-one. Attendees may be asked to complete a questionnaire before departing, or via mail.

**Considerations**

- Often used as a lead-in for another activity (such as a public meeting), or as a follow-up to previous activities (such as release of information).
- While providing a good understanding of the views of some people, it will not necessarily lead to a representative understanding of the concerns of the larger community or of specific groups.
- An attendance/comment sheet can be useful for follow-up or to identify contacts for future consultation activities.

**Advantages**

- Sensitive to people's schedules.
- Allows people to peruse presentation materials at their own pace and to ask questions that they might not want to ask at a public meeting.
- Allows for response to questions in considerable detail and/or to make arrangements for follow-up.



### Public Meetings

**Purpose**

- Provides an opportunity to make a formal presentation to the public, and for the public to obtain answers to questions and provide feedback.

**Format**

- The meeting follows a set agenda.
- Chair could be a neutral party.

**Considerations**

- Can accommodate a large number of people.
- May not be an effective forum for conveying very detailed or technical information; or for obtaining an in-depth and representative understanding of the concerns and views of a particular group.
- Need to chair effectively so that a good cross-section of the audience can ask questions and give feedback.

### Site Visits

**Purpose**

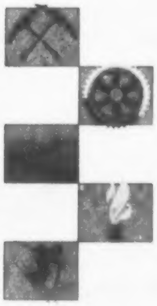
- Provides an opportunity for the public to visit a particular development site in order to obtain first-hand knowledge about a project or a specific issue of concern.
- Can be an appropriate means of introducing the project to the public, and for increasing knowledge about the project and the proponent.

**Format**

- Typically the proponent would meet with invited participants to provide a verbal orientation to the site, a review of the development proposal, and a tour.
- The proponent may wish to provide handouts with more detailed background data or information.

**Considerations**

- A site visit allows for a direct and immediate exchange of information between the proponents and the public. May not be possible to accommodate a large number of people.
- Can provide ideas for future problem solving activities, but is not, by itself, suitable for building consensus or making decisions.
- Those meeting with the public should have good communication skills, particularly if the project is controversial.
- Access to the facilities and public safety concerns should be considered when arranging a site visit.



**Workshops**

**Purpose**

- Provides a structured forum where one or more small groups of people work together on a common problem or task. The goals can include achieving consensus on issues, approaches and/or solutions.

**Format**

- Is most effectively run by neutral facilitator(s).
- Plenary sessions should introduce and conclude the workshop.
- A round-table, or hollow square set-up, works best for group discussion.

**Considerations**

- A useful approach for problem-solving and building consensus.
- It is important for participants to have a clear understanding of what is to be accomplished during the workshop so workshop expectations can be clarified at the beginning.
- For this technique to be successful, participants need to be committed to achieving the goals of the workshop.
- Facilitators need to be prepared to work through disagreement/confrontation between stakeholder groups.
- Providing participants with material prior to the meeting can enhance the effectiveness of the session. An information package distributed well in advance of the meeting can facilitate pre-meeting preparation.

### Focus Group Sessions

**Purpose**

- A meeting of invited participants designed to gauge the probable response of one or more groups to a proposed project. Participants are specifically selected to represent particular groups or stakeholder interests.

**Format**

- Normally run by professional facilitators, a focus group can last from a few hours to a full day. Participants are presented with one or more "project options" and asked to provide their reactions to the material. The facilitators question the participants to find out more about the nature and intensity of their views, and also the substance of any recommendations that they would make.

**Considerations**

- A technique for gaining a detailed understanding of people's perspectives, values, and concerns. Focus groups are particularly useful when preliminary ideas have already been developed and need to be tested.
- Provides information and ideas, which can be used in other consultation activities, such as public meetings and workshops.
- Is not a technique for providing information to the general public; nor is it a forum to respond directly to questions, build consensus or make decisions.

### Invited Presentations to Stakeholder Groups

**Purpose**

- An opportunity to provide information and address the questions of a specific audience.

**Format**

- The proponent's representative(s) delivers a presentation of a specified length on specific topics.

**Considerations**

- It is important to be clear on the expectations for the presentation (e.g., scope, level of detail, issues to be covered) and the audience to whom the presentation will be given, so that the material and style of presentation can be tailored accordingly.
- Where the presentation is part of a larger agenda or meeting, the presenter should obtain clarification of his/her role in the session, beyond the presentation itself.
- While the primary focus is on providing information, the session may also enable the presenter to gain a better understanding of the concerns and issues of the audience.

## 6.4 ADVERTISING SPECIFICATIONS

Newspaper advertisements are a primary means for giving notice to the public of a public meeting and on application or project report review. The standard format for a newspaper advertisement is as follows:

| | |
|---|---|
| **notice size:** | large enough to be eye catching relative to location in newspaper |
| **title typeface:** | Helvetica/Arial/similar sans serif font |
| **title type size:** | 14 point minimum |
| **text typeface:** | Times New Roman/similar serif font |
| **text type size:** | 12 point minimum |

Copies of the published advertisements, including newspaper name(s), times and dates of publication, must be sent to the EAO. Sample advertisements are presented on the following pages. The EAO should be consulted regarding specific requirements and identification of the most appropriate publications in which to place the ad. Sample advertisements are provided on the following pages.

**(PROPONENT)**

**INVITES RESIDENTS OF ___________**

**TO ATTEND AN
OPEN HOUSE**

FOR PURPOSES OF OUTLINING THE DEVELOPMENT AND RECEIVING YOUR OPINION ON THE PROPOSED DEVELOPMENT OF THE

(PROJECT NAME)

(day, date)

(time)

(location)

Brief description of project and location.

Components of the project will include:

(company) invites the public to join project representatives for coffee and informal discussion. Details of the (project name) project will be presented.

Your views and comments are welcome.

(Proponent may wish to include a company logo and contact for further information).

## ENVIRONMENTAL ASSESSMENT NOTICE
## PUBLIC COMMENT INVITED ON
## AN APPLICATION FOR
## *<PROJECT TITLE>*

***<THE PROPONENT>*** has made an application for a project approval certificate under the *Environmental Assessment Act* (Act) for ***<PROJECT TITLE>***. The application is for approval of ***<PROJECT DESCRIPTION>*** to be located at ***<LOCATION FOR PROPOSED PROJECT>*** near ***<CLOSEST POPULATED AREA IF APPROPRIATE>***.

For the purpose of the environmental assessment review, the ***<PROJECT TITLE>*** includes the following:

1. ***DESCRIBE ON-SITE FACILITIES***
2. ***DESCRIBE OFF-SITE FACILITIES RELATED TO THE PROJECT***
3. ***DESCRIBE RELATED ACTIVITIES***

The application may be viewed at the Environmental Assessment Office (EAO) Project Registry on the 1st Floor, 836 Yates Street, Victoria, BC, V8V 1X4, (250) 356-7441 and at:

***<IDENTIFY SATELLITE REPOSITORIES HERE>***

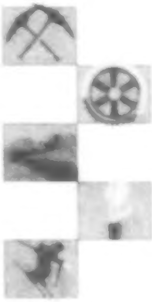
The application, as well as information regarding the environmental assessment process and projects under review, is available on the EAO website at http://www.eao.gov.bc.ca

The EAO invites comments on the application to ensure that public issues are identified and addressed as part of the environmental assessment review process. The public comment period begins on ***<DATE>*** and ends on ***<DATE>***. ***[30-75 DAYS COMMENCING 7 DAYS AFTER EA NOTICE]*** All comments will be available to the general public through the EAO Project Registry and [optional] possibly on the EAO website as originally submitted and required by the Act. If your comments do not indicate that you wish your personal information (full address, email address, and telephone number) to be treated in confidence, it will be made public. Also, unless you indicate otherwise, your name and personal information will be added to the EAO Database and you will be provided with information on further opportunities for public involvement. All comments will be considered as part of the review.

Comments on the application for <PROJECT TITLE> must be received at the EAO by <DATE>.

Please send your comments to:

Project Director's Name
Project Committee Chair
Environmental Assessment Office
PO Box 9426
Stn Prov Govt
Victoria BC V8W 9V1



## ENVIRONMENTAL ASSESSMENT NOTICE
## PUBLIC COMMENT INVITED ON
## THE PROJECT REPORT FOR
## <*PROJECT TITLE*>

<***THE PROPONENT***> has made an application for a project approval certificate for <***PROJECT TITLE***>. The application is for approval of <***PROJECT DESCRIPTION***> to be located at <***LOCATION FOR PROPOSED PROJECT***> near <***CLOSEST POPULATED AREA IF APPROPRIATE***>.

As part of the environmental assessment of <***PROJECT TITLE***>, <***THE PROPONENT***> has prepared and submitted a detailed impact assessment report <***PROJECT REPORT***> which assesses the potential effects of the project and presents strategies for managing these effects.

The project report may be viewed at the Environmental Assessment Office (EAO) Project Registry on the 1st Floor, 836 Yates Street, Victoria, BC, V8V 1X4, (250) 356-7441 or at:

<***IDENTIFY SATELLITE REPOSITORIES HERE***>

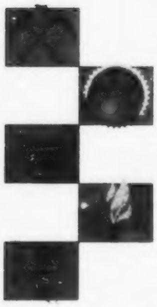
The project report, as well as information regarding the environmental assessment process and projects under review, is available on the EAO website at http://www.eao.gov.bc.ca

The EAO invites comments on the project report to ensure that public views on the adequacy of <***THE PROPONENT***>'s effects assessment and impact management proposals are taken into account in the review of the project. All comments will be available to the general public through the EAO Project Registry and [optional] possibly on the EAO website as originally submitted and required by the *Environmental Assessment Act*. If your comments do not indicate that you wish your personal information (full address, email address, and telephone number) to be treated in confidence, it will be made public. Also, unless you indicate otherwise, your name and personal information will be added to the EAO Database and you will be provided with information on further opportunities for public involvement. All comments will be considered as part of the review.

Comments on the project report for <***PROJECT TITLE***> must be received at the EAO by <***DATE***>.

Please send your comments to:

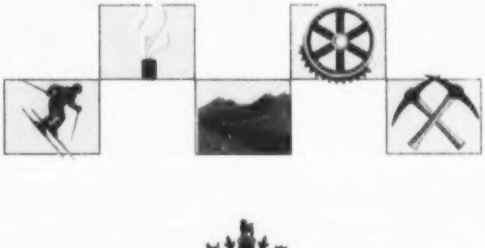
Project Assessment Director's Name
Project Committee Chair
Environmental Assessment Office
PO Box 9426
Stn Prov Govt
Victoria BC V8W 9V1



ENVIRONMENTAL ASSESSMENT OFFICE

# APPENDIX 6

# GUIDELINES FOR THE PUBLIC ON HOW TO PARTICIPATE IN THE ENVIRONMENTAL ASSESSMENT PROCESS



BRITISH
COLUMBIA

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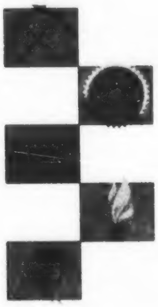

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# GLOSSARY OF TERMS

**Act** — British Columbia *Environmental Assessment Act.*

**Application** — an application for a project approval certificate that is filed by a proponent in accordance with section 7 of the Act.

**Application Guidelines** — Guidelines for the Preparation of an Application for a Project Approval Certificate.

**Baseline Monitoring** — the process of collecting information on biophysical or socio-economic conditions at the site or in the vicinity of a proposed project, to enable a determination of project effects through before and after comparisons.

**Chair** — the Environmental Assessment Office Project Assessment Director delegated authority to chair a project committee and generally oversee all aspects of a project review.

**Comments** — the formal response, advice and informed opinion about a project submitted to the Project Committee Chair.

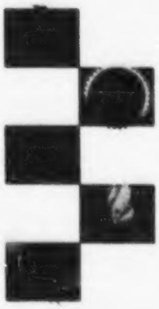
**Environmental Assessment (EA)** — environmental assessment is a project-planning tool and information gathering process. It measures the potential impact of proposed projects and identifies ways to avoid, mitigate or compensate potential impacts.

**Environmental Assessment Office (EAO)** — the provincial organization that is responsible for administration of the Act and regulations.

**Executive Director** — the government official appointed to oversee all aspects of EAO operations. The Executive Director is the Deputy Minister of the EAO.

**First Nations** — an aboriginal governing body or bodies, however organized and established by aboriginal people within their traditional territory in British Columbia.

**Issues** — an identified concern, question or indication of support regarding potential effects of a proposed project.



**Mitigation** — measures for controlling, reducing or eliminating an adverse impact of a development on the environment or community, including restorative measures.

**Minister** — the Minister of Environment, Lands and Parks.

**Ministers** — the Minister of Environment, Lands and Parks, and the Responsible Minister.

**Permit Review** — review processes associated with approvals required under various statutes for the project design, construction, start-up of operations, or access to Crown land. Permit reviews normally require detailed information relating to the design of project infrastructure and facilities, and of proposed operational practices. Detailed analysis and assessment of this information by agencies is necessary prior to the issuance of approvals, permits or tenures, as the case may be, by individual regulatory agencies.

**Post-certification Issue** — issues which are reviewed during the regular permitting/approval review processes.

**Project Approval Certificate** — a certificate issued under the Act which allows a proponent to proceed with applications for any necessary project development permits and approvals.

**Project Assessment Director** — the government official delegated authority to chair a project committee and generally oversee all aspects of a project review.

**Project Committee** — the committee of representatives of provincial agencies, federal agencies, local governments, First Nations and neighbouring jurisdictions that reviews an application and, if necessary, a project report. The report prepared by the project committee chair in consultation with the project committee.

**Project Committee Recommendations Report** — a report to Ministers summarizes the application and/or project report review and includes recommendations.

**Project Report** — the report submitted by the proponent to resolve issues that were not sufficiently addressed during the review of the application.

**Project Report Specifications** — the terms of reference that are provided to the proponent for preparing a project report.

**Proponent** — any person that proposes to undertake a reviewable project in British Columbia, including the government of Canada, British Columbia, First Nations, a company, a municipality, a regional district, another province or another jurisdiction.

**Public Advisory Committee** — a committee comprised of members of the public that may be established to provide advice and recommendations to a project committee.

**Project Committee Member** — a member of a project committee who participates directly in committee proceedings.

**Regulations** — the regulations that are in effect pursuant to the *Environmental Assessment Act*, namely the Reviewable Projects Regulation and the Prescribed Time Limits Regulation.

**Responsible Minister** — the Minister designated by Cabinet who shares decision-making authority with respect to project approval with the Minister of Environment, Lands and Parks. The Responsible Minister is usually the Minister with key programming or regulatory responsibility for the project sector.

**Review Agency** — an agency or organization that receives and comments on project review documentation (but is not represented by a regular project committee member).

**Screening** — the process for determining whether or not an application or a project report is accepted for EA review by the Executive Director.

**Technical Advisor** — a representative of an agency or organization, or a consultant hired by an agency or organization, who supplies expertise on particular assessment topics to the project committee member or review agency with whom he/she is associated.

# COMMONLY USED ABBREVIATIONS

| | |
|---|---|
| **CEAA** | Canadian Environmental Assessment Act |
| **EA** | Environmental Assessment |
| **EA Board** | Environmental Assessment Board |
| **EAO** | Environmental Assessment Office |
| **MELP** | Ministry of Environment, Lands and Parks |
| **RA** | Responsible Authority under the Canadian Environmental Assessment Act |

# 1.0 INTRODUCTION

BC's *Environmental Assessment Act* (the Act) establishes the environmental assessment (EA) process. A key feature of the EA process is the legislated responsibilities and opportunities relating to public participation in the review of proposed projects.

Public participation in EA reviews is accomplished by providing the public with notification, information and an opportunity to comment on project proposals, and providing for early and ongoing meaningful consultation by the proponent and the Environmental Assessment Office (EAO) to identify issues and resolve public concerns. The Act requires that project reviewers consider public comment when formulating recommendations for government decision-making.

This Guideline provides practical advice to the public on how they may make the most of the opportunities for public participation in an EA review. It should be read in conjunction with the *Guide to the British Columbia Environmental Assessment Process* (the Guide), which provides a detailed overview of the EA process.

In this document, the term "public" refers to the public at large, including: individuals, community organizations, and special interest groups (e.g., business, environmental, outdoor recreation, trade and women's groups). Information on Aboriginal issues and consultation is provided in Part D of the Guide.

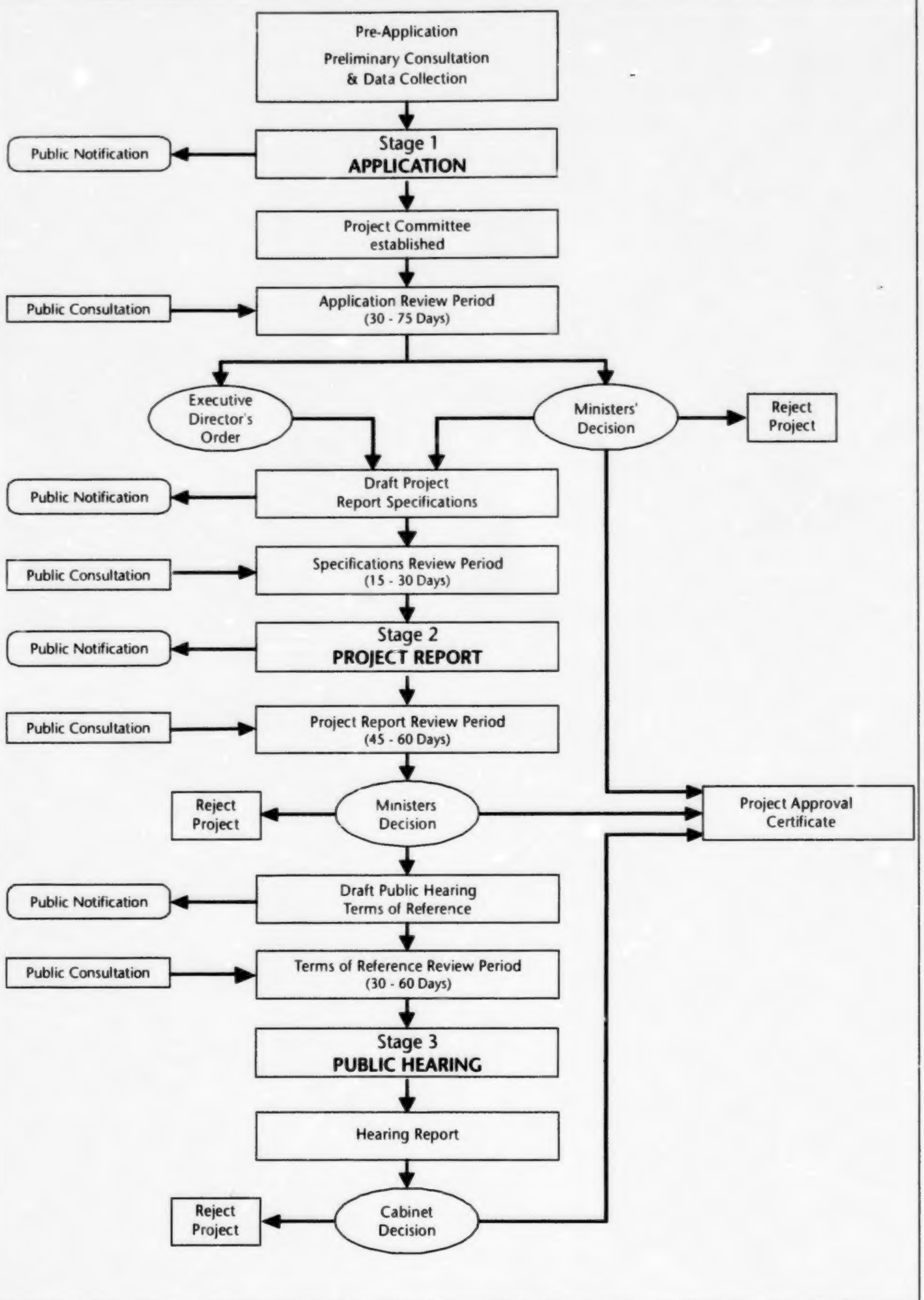
# 2.0 THE ENVIRONMENTAL ASSESSMENT PROCESS

## 2.1 DESCRIPTION OF THE ENVIRONMENTAL ASSESSMENT PROCESS

The EA review is a legislated process that provides numerous clearly established opportunities for citizens to identify their issues about a project. The Act establishes specific notification, information, and consultation requirements for each stage in the process.

Throughout the EA process, both the proponent and the EAO have responsibilities with respect to public participation. Figure 1 depicts the major stages in the process and the opportunities for public participation at each stage.

**Figure 1: Overview of the EA Process**


Pre-Application
Preliminary Consultation & Data Collection
Public Notification
Stage 1 APPLICATION
Project Committee established
Public Consultation
Application Review Period (30 - 75 Days)
Executive Director's Order
Ministers' Decision
Reject Project
Public Notification
Draft Project Report Specifications
Public Consultation
Specifications Review Period (15 - 30 Days)
Public Notification
Stage 2 PROJECT REPORT
Public Consultation
Project Report Review Period (45 - 60 Days)
Reject Project
Ministers Decision
Project Approval Certificate
Public Notification
Draft Public Hearing Terms of Reference
Public Consultation
Terms of Reference Review Period (30 - 60 Days)
Stage 3 PUBLIC HEARING
Hearing Report
Reject Project
Cabinet Decision

## 2.2 WHAT YOU CAN EXPECT FROM THE ENVIRONMENTAL ASSESSMENT OFFICE

The EAO directs the EA review according to the requirements of the Act and plays an important role in clarifying the EA process expectations for all those participating in the review. In each review, a Project Assessment Director will chair the project committee, lead the review, and act as a key contact for proponents, First Nations and the public. The Project Assessment Director will be able to provide helpful advice with respect to the public consultation program, and the EA review generally.

The major responsibilities of the EAO with respect to the requirements for public participation are:

**Advice and Direction** — providing information to the public about consultation opportunities throughout the process, directing proponents on consultation requirements, and evaluating/monitoring proponents' consultation programs. In some cases, the EAO may directly undertake public consultation, either alone or jointly with the proponent, to assist in identifying and addressing public issues and concerns.

**Notification** —placing all notices with respect to each stage of the review process on the Project Registry; sending letters of notification regarding the application, project report specifications and the project report to parties on the project assessment distribution list; providing project updates as the review proceeds; and advertising and distributing the notice of the draft project report specifications and the draft terms of reference for the public hearing, if any.

**Project Registry** — placing documents related to the project (as prescribed by the Act) on the Project Registry and the EAO website within the required timelines, and arranging for these documents to be available at any satellite registry repositories established in the location of the project.

**Establishing Appropriate Forums for Public Input to Technical Issues Resolution** — as appropriate, holding special project committee meetings that are open to the public and hosting public workshops or other forums for facilitating public consideration of technical issues. Establishing public advisory committees where warranted.

**Participant Assistance** — administering participant technical or financial assistance in accordance with government policy.

**Assessing the Adequacy of Consultation** — evaluating the consultation programs established by proponents.

## 2.3 WHAT YOU CAN EXPECT FROM THE PROPONENT

The responsibilities of the proponent for public notification and consultation in an EA review are:

**Public Notification and Advertising** — providing public notice and advertisements about the project review.

**Adequate Distribution of Information** — providing information on the proposed project to the public and stakeholder groups in communities potentially affected by the project.

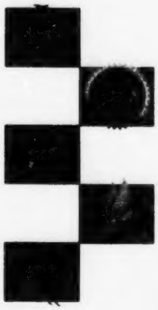
**Meaningful Public Discussions** — undertaking discussions with the public and community groups, using appropriate methods to identify and analyze public concerns, and developing appropriate modifications to project design and implementation which will address these concerns, during both the review process and the project implementation phase.

**Responding to Issues Raised** — arranging for follow-up consideration of, and response to, specific issues and concerns identified by the public during consultation. Providing information and cooperating with the EAO, the project committee, any PAC and where relevant, the EA Board in their efforts to address public issues and concerns.

**Reporting on Public Consultations** — providing a full report on the consultations undertaken and the results of the consultations in both the application and the project report.

## 3.0 GOALS OF PUBLIC PARTICIPATION

Public participation in the EA process is intended to contribute to project design and decision-making processes by ensuring that community perspectives and issues about a project are known before a project proceeds to development. Public participation provides a means for proponents to learn about and incorporate local information, community values, priorities and concerns into a project's design, and thereby contributes to better project planning. Early identification of potential impacts can assist in developing options to enhance positive effects and prevent or mitigate the adverse effects of a project. As well, public participation in EA reviews results in more comprehensive information being compiled about a project proposal for government decision-making.



Effective public participation in EA requires good communication: the proponent provides comprehensive information about a project proposal; and the EAO ensures notification, availability of information and opportunity to comment, and consideration of public comment by the project committee. The public, in turn, shares its ideas, questions and concerns about the potential impact of the proposal.

Public participation in EA reviews:

- ensures that public concerns are identified so that they may be adequately addressed in the review;
- provides useful local information and knowledge for completing the required impact assessment studies;
- improves overall community and public understanding of the project;
- prepares local communities and residents for managing the social, economic and land use impacts of a project; and
- prepares interested workers and suppliers for training, employment and business opportunities related to the project.

## 3.1 WHY GET INVOLVED?

### 3.1.1 PROJECT PROPOSALS MAY IMPACT YOUR COMMUNITY

Projects that are subject to EA in BC may impact on a community or a region. While proponents are required to consider a range of factors in their project design, it is likely that they may not be able to identify all issues. Public input is essential to fully identify all potential effects and issues, so that they may be adequately considered in the EA review. Public input often contributes valuable information to the design of the project, increases the likelihood that projects reflect community values, and gives citizens a meaningful role in community development.

### 3.1.2 PROJECT REVIEWERS MUST CONSIDER PUBLIC INPUT

Projects may not be referred to Ministers for decision until all public information and consultation measures have been carried out. In making a referral to Ministers, project committees consider all comments that have been received on a project. Ministers are required to provide written reasons for their decisions, which will be filed on the Project Registry.

Factors to be considered in an EA review are:

- environmental and health effects;
- economic and social impacts; and
- cultural and heritage effects.

The EAO's Guidelines for the Preparation of an Application for a Project Approval Certificate (Application Guidelines) contain specific direction on the type of information a proponent should provide, and can also assist the public in preparing comments on a proposal.

## 3.2 WHERE TO GET INFORMATION

The EAO manages a Project Registry that houses extensive records about projects subject to EA review. The application, public and government comments, the detailed project report, project committee advice and recommendations, and decisions by Ministers and the Cabinet are available on the Project Registry and may also be available on the EAO website.

Documentation on projects being reviewed under the EA process is available for public inspection at the Project Registry during normal office hours (8:30 a.m. to 4:30 p.m., Monday to Friday except statutory holidays) and may also be available on the website and at any satellite registry repository in the location of the project. In order to determine if records are available in a specific region and at which locations, call the EAO Project Registry.

**You may access the EAO Project Registry documentation in three ways:**

i) **Project Registry – Environmental Assessment Office**:

1st Floor, 836 Yates Street
Victoria, British Columbia
V8V 1X4

Phone: (250) 356-7441 (Victoria)
Toll-free calls through Enquiry BC at 1-800-663-7867 or
(604) 660-2421 (Vancouver)
Fax: (250) 356-7440

ii) **Satellite Project Registry:** a satellite repository may be established in communities near the proposed project (e.g., school or public library, post office, band office)

iii) **Virtual/internet:** www.eao.gov.bc.ca

## 3.3 WHEN SHOULD YOU GET INVOLVED?

The earlier you make your concerns and ideas known about the impacts of a project, the more likely the proponent will be able to address them and include them in project design. Many projects only require one stage of review. This means that the public has only one legislated opportunity for providing public comment. As the proponent progresses through the stages of the EA review, and project design and mitigation plans are refined, it becomes more difficult to revisit project plans.

The proponent is encouraged to provide information to the public about a project before an application is submitted and proponents normally start consulting with the public prior to submitting their application for EA review. Due to confidentiality requirements, the EAO is not in a position to provide information to the public on a project at the pre-application stage, but can provide contact information for the proponent.

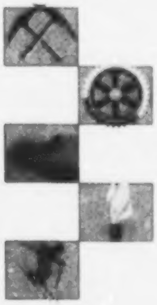
Once the application has been submitted by the proponent and accepted by the EAO, the notification and information requirements of the Act ensure that information about the project is publicly available and opportunities are made for providing public comment.

The public comment period will be established by the EAO after taking into account anticipated public interest, extent of pre-application consultation and other factors such as the proposed construction schedule.

To be considered by the project committee, public comments are to be received by the EAO before the end of the public comment period.

**FOR EXAMPLE...**
During the public comment period for a linear development project, many landowners reviewed the project application on the EAO website and submitted their concerns to the EAO within the public comment deadline. The proponent's response to the comments showed how many of the issues would be addressed during development, including the use of an alternate route. Other landowners did not respond until the project assessment was complete, a project approval certificate had been issued, and construction begun. By that time, it was too late for their concerns to be considered as the EA process was completed.

## 3.4 WHAT TYPE OF INPUT SHOULD BE PROVIDED TO THE REVIEW?



### 3.4.1 TYPES OF INFORMATION

The EA process provides for the thorough, integrated assessment of the environmental, economic, social, cultural, heritage and health effects of reviewable projects.

Public input on any of the EA themes must be considered by government when making recommendations and decisions concerning project approval. As well, impact of the proposal on community values is considered.

Public comments on project proposals should be focused on the proposed project and those components that are being reviewed by the project committee. The EA process defines reviewable projects by regulation and limits review to those components included as part of the reviewable project. The EA review is not a land use planning mechanism. For a more detailed discussion on the scope of review, see the *Guide to the British Columbia Environmental Assessment Process.*

As an EA review progresses, its scope becomes increasingly narrow. Therefore, the public is advised to identify the full range of issues that it would like to address at the earliest opportunity. If the project proceeds to the project report stage, the review will be limited to addressing those issues that were not adequately resolved in the application stage.

Public comments about a proposal should be as clear and comprehensive as possible. Where available, you should provide factual information upon which to base your comments, which will allow the proponent to address your concerns and incorporate responses to these concerns into the project design.

Public input may include comment on issues such as:

- the methodology and scope of studies being undertaken as part of the EA review;
- substantive concerns about the impacts of the project; and
- the adequacy of the proponent's consultation program.

### 3.4.2 LEVEL OF INFORMATION

EA reviews are high-level reviews that determine project impacts and mitigation options; in many cases, specific details related to mitigation design are considered during permit-level reviews. EA reviews take place prior to or concurrently with reviews for associated statutory permits and approvals. Accordingly, the level of project detail required for EA reviews may not be as detailed as it might be for permit-level reviews.

Public input on EA level issues such as conceptual project design is considered by the project committee; issues related to project implementation and detailed design are normally considered during the permit reviews.

## 3.5 HOW TO KEEP TRACK OF ISSUES RAISED DURING THE REVIEW

The EAO may maintain project issue identification documents which list issues raised by the public, First Nations and other government agencies. These documents may be posted on the Project Registry and satellite repositories as the review proceeds. The minutes of project committee meetings may also provide information on issue identification and are also posted on the Project Registry.

Issues that are recorded on the issue identification document may originate from a variety of sources, including:

- records of pre-application discussions between proponents, government agencies, the public and First Nations that are facilitated by the EAO;
- written comments including those received from government agencies, the public and First Nations;
- analysis and advice by individual project committee members as recorded by the EAO during project committee meetings;
- public and First Nations comments recorded by the proponent/EAO at public consultation sessions (e.g., open houses); and
- proponent responses to comments (if any).

## 4.0 TIPS FOR PARTICIPATING IN AN ENVIRONMENTAL ASSESSMENT REVIEW

This section provides a brief overview of some of the practical considerations that public interest participants should be aware of when providing input to an EA review. You should keep in mind that each review will be unique, and that there may be issues and considerations raised in an EA review that are not specifically addressed here.

**Confirm that you are on the EAO mailing list** — while key interested members of the public or groups will already be known to the EAO, you should confirm with the Project Registry that your name is included on the EAO project mailing list to ensure that you receive notification once an EA review commences and as project updates are published.

**Contact the EAO** — as the neutral administrator of the EA process, the EAO is a key source of expertise and experience regarding EA reviews.

**Contact other provincial government staff** — other government departments involved in the EA review, either through the project committee or through other permitting and approval processes, may have technical expertise related to your areas of interest or concern. In particular, regional staff in provincial government ministries may be familiar with local issues, and may provide useful local information and insight regarding the proposal.

**Contact other government representatives** — most project proposals will require input from the local and federal levels of government. Local government planners and local politicians may be able to share information about the project with you. Similarly, representatives from federal departments with an interest in the project may also have relevant expertise.

**Offer suggestions on how to consult** — proponents are often receptive to suggestions on how, when, and with whom they should be consulting.

**Request government representation at project open houses and public meetings** — it is helpful to have members of the project committee attend public meetings to provide technical expertise, and hear public comments directly.

**Ask for a special meeting of the project committee** — regular project committee meetings are closed to the public. Where warranted, special project committee meetings can be held or portions of a meeting can be made open to the public to consider public concerns and issues. Issues and concerns raised by the public and the media at special project committee meetings are recorded in the minutes and in the project issues identification document.

**Explore the feasibility of a public workshop** — you may wish to suggest a list of invitees and appropriate times and venues for a public workshop that could include government representatives, technical experts and interested members of the public.

**Review the issue identification documents and project committee meeting minutes** — check the Project Registry to review any project issue identification documents or project committee minutes.

**Ask for copies of EA documents** — if you are able to undertake a detailed review of a proposal and are not able to download these documents from the EAO Project Registry website, ask the EAO to provide you with copies of the relevant review materials.

**Learn about technical issues** — try to become familiar with the technical language used in a review, in order to understand the project proposal and how it proposes to mitigate impacts.

**Increase public awareness** — encourage attendance at open houses or public meetings to discuss the proposal.

**Establish contact with other interested parties** — if a proposed project is significant enough to require an EA, there will likely be a number of different community interests who will want to participate or provide comments on the proposal. Find out who else may share your interest, or have similar interests, and meet with them. This may include community groups, ratepayers' organizations, environmental groups, residents of neighbouring municipalities, local First Nations, the Chamber of Commerce, or other business interests.

**Provincial umbrella organizations may also be able to provide some advice and direction:**

The **BC Environmental Network** can put you in touch with other environmental organizations, community groups, sources of funding or expert assistance (BCEN, Suite 610 — 207 West Hastings, Vancouver, BC, V6B 1H7, (604) 879-2279, www.bcen.bc.ca).

The **BC Chamber of Commerce** can put you in touch with local chambers of commerce and business interests at the community level (BC Chamber of Commerce, 1607 — 1700 West Pender Street, Vancouver, BC, V6C 1G8, (604) 683-0700, www.bcchamber.org)

The **BC Federation of Labour** can put you in touch with your local labour council and union offices that may provide information about the community impacts (BC Federation of Labour, 200 — 5118 Joyce Street, Vancouver, BC, V5R 4H1, (604) 430-1421, www.bcfed.com).

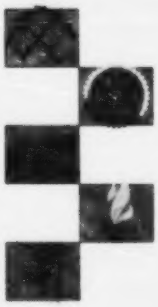
**There may be other organizations that can provide information about specific issues of interest and concern.**

## 5.0 KEY QUESTIONS TO ASK

While the specific issues relating to a proposed project will be unique in every case, the following key questions may help you focus your efforts in participating in the EA review. These questions are not exhaustive, and should be considered as a guide only.

**What may be the impacts of the project on the environment or human health?** This could include impacts or improvements to air quality, water quality, soil quality, noise concerns, species diversity, and habitat protection.

**What social and economic impacts is the proposed project expected to have?** This could include issues such as whether the project will have an impact on the local economy, existing businesses, the labour market, employment opportunities; and whether the local infrastructure, such as transportation and social support services, is adequate to support the proposal or will benefit from the proposal.



**What will be the effects on culture or heritage resources?** This could include impacts and opportunities related to local archaeological sites, historic sites, heritage buildings or sites, and landscape features.

**What level of detail will be addressed during the assessment, and what will be dealt with during the permitting phase?** The EA focuses on the impacts and benefits of the overall design of the project and its components. Typically, permitting deals with specific standards for implementing and operating different components of the project.

**What technical studies are being conducted for the application?** Do these technical reports provide you with adequate certainty that your interests are addressed and understood?

**What are the views of various government agencies and stakeholders about key issues?** Is there consensus or debate about methods and findings? How are the areas of debate resolved?

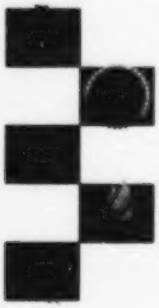
**What mitigation measures are recommended to address your interests?** Who will be responsible for their success? What resources are required to ensure their success?

**Are there other projects or precedents that can be used for comparison with the proposed benefits and impacts?** Are there contacts either locally, or elsewhere, who can discuss their experience with similar projects?

## 6.0 WHAT ARE YOUR OPPORTUNITIES TO PARTICIPATE?

Proponents are encouraged to consult with the public during the pre-application stage. After the proponent has submitted an application for a project approval certificate, specific requirements and time frames must be met for public notification and consultation with respect to:

- the application;
- the project report specifications (if required);
- the project report (if required);
- the terms of reference for a public hearing (if required); and
- the public hearing (if required).



# 6.1 PRE-APPLICATION STAGE

The pre-application stage is not one of the legislated stages of the EA review process, yet the EAO encourages the proponent to conduct early public consultation.

The proponent is the key project contact at the pre-application stage. The proponent is expected to begin consultation with the public prior to submitting an application for a project approval certificate to the EAO. The proponent's consultation at this stage normally focuses on identifying the key members of the public who should be consulted for initial scoping of interests, and meeting with those groups to outline the project concept. The proponent is not expected to have finalized all of the project details at this stage, and the proponent may not be able to fully answer all questions at this time. The aim of discussions at this stage is to get public input on the feasibility of the project and initial project design issues.

## 6.1.1 WHAT CAN YOU DO?

Contact the EAO, which will be able to provide you with contact information for the proponent. Gathering information and commencing discussions with the proponent at this early stage will enable you to get a better understanding of the project, and possibly have some input into the project design and proposed mitigation plans.

Identifying public issues as early as possible means that the proponent may be able to address them in its application. In particular, you may want to ask how the proponent's studies will address your interests, and make suggestions about the scope and methodology of the studies that the proponent proposes to undertake when preparing its application.

**FOR EXAMPLE...**
By meeting with community members and holding open houses where the project was being proposed, a proponent learned about the community's sensitivity to one of the proposed locations for a mill site. As a result, the proponent was able to propose an alternative site that was far more acceptable to the community and would not adversely impact the promotion of local tourism.

# 6.2 STAGE 1: APPLICATION REVIEW

**Time Limits:**

**Average:** 3.5 to 5.5 months

- **Assessment of proponent's public consultation program:** within 45 days of receipt of copies of accepted application
- **Public comment period on the application:** 30 to 75 days
- **Project committee recommendations on the application:** within 40 days of the end of the public comment period
- **Ministerial decision:** within 30 days of the project committee recommendations

**Recommendations and Decision Points:**

**Project committee** considers public and agency comments and recommends that:

- the project should undergo further review (stage 2);
- a project approval certificate should be issued (may recommend terms and conditions); or
- a project approval certificate should be denied.

**Executive Director** either orders a project report (stage 2) or refers the application, with the project committee's recommendations report, to Ministers.

**Ministers** consider the project committee recommendations and either approve or reject the application, or order a project report.

### 6.2.1 NOTIFICATION ABOUT THE APPLICATION REVIEW

Once the EAO accepts an application for a project approval certificate, the public is formally notified of the availability of the application and invited to provide comments by a set date. The timeline for input is determined in accordance with the Prescribed Time Limits Regulation, which allows between 30 and 75 days for public comments. The application will be available on the Project Registry.

The public comment period will be established by the EAO after taking into account anticipated public interest, extent of pre-application consultation and other factors such as the proposed construction schedule.

The proponent has responsibility for advertising the availability of the application for comment, and for implementing any further notification procedures, for example, flyers and signs posted in public places. The intent is to reach individuals who may want to participate in the review or may be affected in some way by the project, including residents of the community in which the project is located, and residents of adjacent communities.

The EAO has responsibility for providing public notification by letter to a wide range of stakeholders and interested members of the public. The mailing list provided by the proponent will form the basis of the EAO's distribution list. You may wish to ensure that your name is on the mailing list.

### 6.2.2 OPPORTUNITIES FOR PUBLIC COMMENT

In addition to notification requirements and provision of a public comment period, the proponent is required to conduct consultation programs that are tailored to the community. Open houses, public meetings, and one-on-one information sessions are all valuable opportunities for you to make your concerns known. While the proponent is required to notify the public about these sessions, you may also be able to get this information directly from the proponent and the Project Registry.

Comments received by the EAO during the prescribed public comment period concerning the application are placed on the Project Registry and considered during the review. All public comments must be submitted within the public comment period. You should note that public comments will be filed on the Project Registry along with the address of the submitter, unless the submitter specifically requests that the address be withheld.

Public comments are considered by the project committee and are not normally responded to directly by the EAO except by an acknowledgement notice.

### 6.2.3 WHAT CAN YOU DO?

The public comment period on the application is the most significant opportunity you may have to comment on the project assessment, as not all projects will proceed to Stage 2. In addition, if a project does proceed to Stage 2, the issues there will be limited to those that the project committee feels are still outstanding from the application review. Therefore, you should ensure that your efforts at this stage are as comprehensive as possible.

Public input should reflect the full spectrum of issues that are raised by the application. At this time, you should carefully read the application, noting elements of the application that are positive and about which you are supportive, and documenting any issues you feel have been overlooked or not adequately addressed. Ideally, you should prepare a written submission commenting on all issues of interest; a written submission is usually the clearest means available to share your views regarding the proposal. If you have access to expert information or reports, or have anecdotal evidence or examples about potential impacts, include this information in your comments.

You may also have an opportunity to comment on the proposal at open houses and other public meetings. While the proponent will provide a summary of issues raised at these meetings to the EAO, you may also follow up with your own written comments on the proposal and send them to the EAO. The Act requires that the project committee consider all comments received during the public comment period in making its recommendations regarding a proposal.

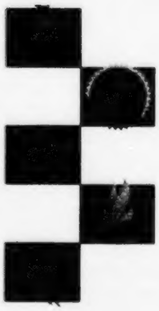
### 6.2.4 ASSESSMENT OF THE ADEQUACY OF CONSULTATION

The proponent's consultation plans for seeking public input, described in the application, are evaluated by the Executive Director of the EAO in consultation with the project committee. This written assessment must be made available to the public, and the public itself is welcome to comment on the adequacy of the proponent's consultation as part of this requirement. Therefore, you will have an opportunity to comment not only on the content of the proposal, but also on the adequacy of public consultation undertaken by the proponent.

The EAO will advise the proponent of any additional measures for distributing information and public consultation deemed necessary to meet the public participation goals established for the EA process. These might include, for example, further advertising of the application, wider distribution of copies of the application to additional specified stakeholder groups, or other special consultation measures. The EAO cannot complete its review of an application or make recommendations regarding the issuance of a project approval certificate until the proponent has conducted the information or consultation activities which comprise the approved consultation program.

## 6.3 AMENDMENTS TO AN APPLICATION

If a proponent wishes to make a change to the project from the way it is described in the application, a request to amend the application may be made to the EAO. The EAO determines whether such a change should be accepted and may require additional consultation on the change.



## 6.4 PROJECT REPORT SPECIFICATIONS

**Time Limits:** 🕒

**Average:** 1 to 2 months

**Draft project report specifications:** available 20 days after order issued for project report

**Public comment period on the draft specifications:** 15 to 30 days

**Final specifications:** within 20 days of the public review

**Decision Points:**

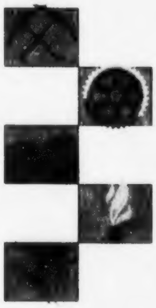
**Executive Director** issues final project report specifications

Where a project proceeds to Stage 2, the EAO prepares draft project report specifications using feedback received during the application review stage. These specifications identify outstanding issues to be addressed by the proponent in a detailed project report. The draft specifications will be placed on the Project Registry, and the Executive Director gives notice in one or more provincial and community newspapers inviting comments. The public will have between 15 and 30 days to comment on the draft specifications.

All written comments on the draft specifications received at this time will be placed on the Project Registry, where the proponent will be invited to comment on them. Within 20 days after the conclusion of the project report specifications review period, the final project report specifications will be placed on the Project Registry.

### 6.4.1 WHAT CAN YOU DO?

Project report specifications are custom tailored to address only outstanding issues in relation to a project. This is a key time for public input, as the comments received will be used to shape the content and scope of the project report. Comments received will influence the information requirements that the proponent will need to meet and define the issues to be addressed in the next stage of the review.



Therefore, if there are any issues that you feel were not adequately addressed or overlooked in the application, be sure to raise them in your project report specification comments. To do this, you may need to review issue identification documentation available on the Project Registry. You should also ensure that you provide justification for raising the issue. Your comments will be taken into account in the final drafting of the project report specifications.

## 6.5 STAGE 2: PROJECT REPORT REVIEW

**Time Limits:**

**Average:** 20 months

- **Assessment of the proponent's public consultation program:** within 45 days of receipt of copies of accepted project report
- **Public comment period on the project report:** 40 to 60 days
- **Project committee recommendations:** within 70 days of the end of the public comment period
- **Ministerial Decision:** within 45 days of the project committee recommendations

**Recommendations and Decision Points:**

**Project committee** considers public and agency comment and recommends that:

- a project approval certificate should be issued (may recommend terms and conditions);
- a project approval certificate should be denied; or
- the project should be referred to the EA Board for a public hearing.

**Executive Director** refers the project report, with the project committee's recommendation report, to Ministers.

**Ministers** consider the project committee recommendations and approve or reject the project report or order a public hearing (stage 3).

### 6.5.1 NOTIFICATION ABOUT THE PROJECT REPORT REVIEW

Once the project report is accepted for review by the EAO, the public is notified and invited to provide comment on the report and the potential effects of the project by a set date. The deadline for input is determined by the Prescribed Time Limits Regulation, which allows between 40 and 60 days for public comment. The project report is available on the Project Registry.

The proponent has responsibility for advertising the notice of the availability of the project report for comment, and for implementing any further notification procedures indicated by the EAO, for example flyers and signs posted in public places. The intent is to reach individuals who may want to participate in the review or may be affected in some way by the project, including but not limited to, residents of the community in which the project is located and residents of adjacent communities.

The EAO has responsibility for providing public notification by letter to a wide range of stakeholders and interested members of the public. The mailing list provided by the proponent in the project report forms the basis of the EAO's distribution list. You may wish to ensure that your name is on the mailing list, if it hasn't already been included at the application review stage.

### 6.5.2 OPPORTUNITIES FOR PUBLIC COMMENT

In carrying out the approved information and consultation program with the public at this stage, the proponent focuses on clarifying and resolving specific issues which remained outstanding after the application review. In addition to notification requirements and provision of a public comment period, the proponent is required to conduct consultation programs that are tailored to the community. Open houses, public meetings, and one-on-one information sessions are all valuable opportunities for you to make your concerns known. Information on opportunities for public sessions may be available directly from the proponent and the Project Registry.

Comments received by the EAO during the prescribed public comment period concerning the project report are placed on the Project Registry and considered during the review. All public comments must be submitted within the public comment period. You should note that all public comments will be filed on the Project Registry, along with the address of the submitter, unless the submitter specifically requests that the address be withheld.

Public comments are considered by the project committee and are not normally responded to directly by the EAO except by an acknowledgement notice.

### 6.5.3 WHAT CAN YOU DO?

As with the application, you should carefully review the project report to ensure that the issues are adequately addressed. In particular, you may want to evaluate the project report against the specifications, and any other studies that have been conducted. Finally, if you have any examples, anecdotal evidence, or expert information, be sure to incorporate this in your comments. All comments should be submitted in writing.

### 6.5.4 ASSESSMENT OF THE ADEQUACY OF CONSULTATION

As with the application, the Executive Director, in consultation with the project committee, evaluates the proponent's plans for seeking public input regarding the project report. This written assessment must be made available to the public, and the public itself is welcome to comment on the adequacy of the proponent's consultation as part of this requirement. Therefore, you will have an opportunity to comment not only on the content of the proposal, but also on the acceptability of public consultation undertaken by the proponent.

The EAO will advise the proponent of any additional measures for distribution of information and public consultation deemed necessary to meet the public participation goals of the EA process. These might include, for example, further advertising of the project report, wider distribution of copies of the project report to additional specified stakeholder groups, or other special consultation measures. The EAO cannot complete its review or make recommendations regarding the issuance of a project approval certificate until the proponent has conducted the information or consultation activities which comprise the approved consultation program.

## 6.6 STAGE 3: PUBLIC HEARING STAGE

**Time Limits:**

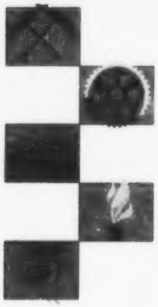
- **Agency and public review of terms of reference**: 30 to 60 days
- **Hearing**: no set time limit, but cannot begin until 15 days after placing the terms of reference on the Project Registry
- **Report of EA Board**: within 30 days of the end of the hearing
- **Cabinet decision**: within 45 days of the EA Board report

**Recommendations and Decision Points:**

**Board** recommends:

- project approval certificate be issued (may recommend terms and conditions)
- project approval certificate be denied.

**Cabinet** may affirm or vary the Board's recommendation.



Where major issues and concerns have not been resolved in previous review stages, a public hearing by the EA Board may be required by Ministers. Draft terms of reference for the hearing are prepared by the Minister and the Responsible Minister.

### 6.6.1 NOTIFICATION ABOUT THE PUBLIC HEARING

The EAO distributes notification about the draft terms of reference to the public and invites comments by a set period of between 30 and 60 days. This input is taken into account in finalizing the terms of reference for the hearing. Once the terms of reference have been finalized and placed on the Project Registry, the EA Board will issue a notice of public hearing that is also placed on the Project Registry and advertised in newspapers.

### 6.6.2 PARTICIPATION IN THE PUBLIC HEARING

During the hearing, the public, the proponent, and expert witnesses may present submissions and briefs.

## 6.7 POST-CERTIFICATION

A project may proceed to construction once a project approval certificate and any related permits have been obtained. However, in some instances, proponents continue to use the community level contacts established through the EA process to keep local residents and concerned citizens apprised of activities regarding the project.

Interested members of the public may suggest that the proponent establish a post-EA certification liaison committee to ensure the transition from planning to construction and implementation is managed effectively.

**FOR EXAMPLE...**
A public access management committee involving the proponent, government agencies, community stakeholders and First Nations was established for a northern mine project. The committee advises on matters of management and control in the project area regarding access to sensitive fish and wildlife populations.

**FOR EXAMPLE...**
An environmental monitoring and public liaison committee, comprising local residents, First Nations, local government, and environmental stakeholder groups was established for a mine project. Key government agencies and the proponent participated in this committee which provided a forum to keep the local public and First Nations informed about the results of environmental monitoring during project development, and to obtain feedback.

ENVIRONMENTAL ASSESSMENT OFFICE

# APPENDIX 7

# PROJECT REGISTRY WEB PUBLISHING DETAILS

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# ENVIRONMENTAL ASSESSMENT OFFICE (EAO)

# WEB-COMPATIBLE PUBLISHING REQUIREMENTS FOR ENVIRONMENTAL ASSESSMENT DOCUMENTS

*Purpose: The EAO publishes key environmental assessment review materials (i.e. applications for a project approval certificate and project reports, as well as any supplementary documentation requested by a project committee) and other reports on the EAO website. All project documentation and reports must be submitted on disc in an electronic format that is compatible with the EAO website. For further clarification and information on the most current requirements, please contact the EAO Project Registry by phone at (250) 356-7441, by fax at (250) 356-7440 or by e-mail at www.eao.gov.bc.ca*

## 1. ALL ELECTRONIC DOCUMENTATION

1. All documentation for inclusion on the EAO website must be submitted either on **diskette**, zip disk or **CD ROM**. There are no exceptions.
2. All electronic documentation must be formatted for IBM-compatibles.
3. When assigning filenames, please use common sense. A file containing the text for section 1 should be called "**sec1.doc**" as opposed to "contmp~a.doc". The same is true for all other files such as "**table1-22**.doc" (not "waterchg.doc"). The title and location within a document should correspond directly to the filename.

**PLEASE ENSURE THAT ELECTRONIC DOCUMENTATION ON DISC ACCOMPANIES FORMAL SUBMISSION OF A HARD-COPY OF DOCUMENTATION.**

## 2. TEXT

1. Plain text is best for formatting into **HTML (HyperText Markup Language)**. Microsoft Word is the best choice (**text.doc**) and is easily formatted for use on the web.
2. Please avoid using:
    - **TOC FIELDS (Microsoft Word Table of Contents fields)** as they lock documents in a strict format thus making the process of conversion very time consuming and causing a considerable delay committing the text to HTML. **This is very important.**
    - TRACK CHANGES function in MS Word. If you have used this function be aware that though the changes/edits may not be visible, all changes are still in the electronic copy and may be accessible on the web.

- **Inclusion of the report's Table of Contents is vital and should be a separate document. (example: toc.doc)**

3. Each report should be broken down into its individual sections each section should not exceed 200K :

   Example: Section 1.doc - contains parts 1,2,3, etc. of Section 1
   Section 2.doc - contains parts 1,2,3, etc. of Section 2

4. For consistency reasons, only the names of the "Acts" should be italicized.
   e.g.: *Environmental Assessment Act.*

## 3. TABLES

1. **Tables are best presented in Microsoft Word format (table.doc)**. Microsoft Excel is also acceptable (**table.xls**) but is time consuming, as it must be converted twice before it is committed to the web.

2. Please try to avoid tables that are very large (more than 3 pages).

3. When formatting tables, place all data in one table rather than multiple tables. This will ease formatting into HTML.

Example: **Improper** - Two tables, 1 for title and 1 for data.

| **This is Table 3.11** |
|---|

| | |
|---|---|
| Data | Data |
| Data | Data |
| Data | Data |

Example: **Proper** – One table, title and data is inclusive.

| **This is Table 3.11** | |
|---|---|
| Data | Data |
| Data | Data |
| Data | Data |

Avoid the use of TABS in lieu of table formatting. Conversion into HTML with tabs formatting will result in the entire table being converted into one giant line of text. If the text is formatted in this fashion it will take an especially long time to complete, it is omitted entirely and a notice to readers to seek out the information at the Satellite Repositories is placed where the table would reside within the document.

## 4. FIGURES AND DRAWINGS

Figures for reports are best sent in **.gif** format (Graphics Interchange Format). Figures can be digitally scanned if necessary but please keep in mind that the process is time-consuming and will take some time before they appear on the web.

Size = 640 Width
480 Height
DPI = 300

**The figure size is of utmost importance**. The figures must not be larger than the screen on most Internet browsers. Please double-check the width and height of the figures in a browser before committing them to our office. If the figures are too large, they simply will not appear with the document and a disclaimer will accompany the list of figures instructing the reader to consult the Satellite Repositories to view the item(s).

## 5. PICTURES

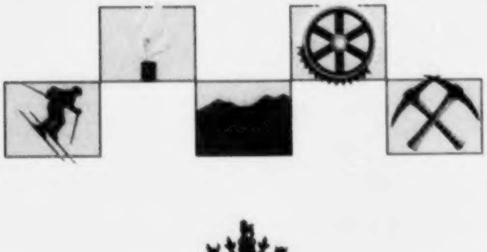
Pictures that accompany reports are best sent in **.jpg** format (Joint Photographic Experts Group). Pictures can be digitally scanned if necessary but please keep in mind that the process is time consuming and will take some time before they appear on the web.

PDF format is acceptable as well but gif and jpg are preferable.

ENVIRONMENTAL ASSESSMENT OFFICE

# APPENDIX 8

# SAMPLE OF PERMIT COORDINATION DOCUMENTS



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# APPENDIX 8 – SAMPLE OF PERMIT COORDINATION DOCUMENT

## Summary chart of required permits (sample)

**Project:** project title

**Proponent and contact:** proponent information

**Proposed construction start:** construction start-up date

**Primary Government Contact:** Name of Contact (Alpine Ski Resorts (BCAL); Mines – chair of the Regional Mine Development Review Committee; Oil and Gas Commission – Commission for northern projects; others to be appointed on a project-by-project basis

| Permit Name and # | Issuing Agency | Anticipated date of permit Application | Permit Public/FN Consultation Obligations and Requirements (if any) | Permit Review schedule | Status |
|---|---|---|---|---|---|
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

Permit details to be identified during the enviornmental assessment review. Chart and details to be maintained by primary government contact during the permitting review stage to start-up of project operations.

# OUTLINE OF PERMIT REVIEW AND PROCESSING DETAILS (Sample)

## (Complete one for each permit)

**Project Name:** insert project title

**Permit Title and #:** complete for each required approval

**Statutory Reference:** insert

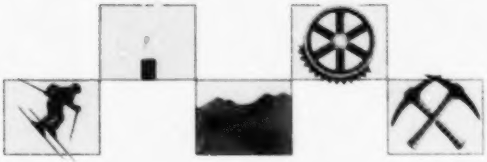
**Issuing Agency:** insert agency/contact name(s)

1. Description of Permit and Information Requirements - (specific information requirements for the proponent).
2. Requirements for First Nations and Public Consultation (if any).
3. Description of EA Certificate Conditions relating to this Permit.
4. Monitoring and reporting requirements.
5. Description of permitting issues and sign-off of permit-issuing agency on condition compliance (as progress dictates).

ENVIRONMENTAL ASSESSMENT OFFICE

# APPENDIX 9

# TABLE OF STATUTORY CROSS REFERENCES BETWEEN THE EA GUIDE AND THE *ENVIRONMENTAL ASSESSMENT ACT*

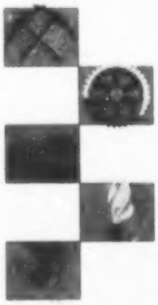


BRITISH
COLUMBIA

# STATUTORY CROSS REFERENCES BETWEEN THE EA GUIDE AND THE *ENVIRONMENTAL ASSESSMENT ACT*

| PURPOSE AND APPLICATION OF ENVIRONMENTAL ASSESSMENT ACT | | |
|---|---|---|
| **Topic** | **Section in the EA Guide Table of Contents (TOC)** | ***Environmental Assessment Act* Provision** |
| Purposes of the EA Process | 2 | Section 2 |
| Reviewable Projects and Activities | 3.1 | Sections 1 and 3 |
| Project Components | 3.4 | Section 1 |
| Discretionary Designation of Projects as Reviewable | 3.2 | Section 4 |
| Transition from Former Review Processes | 3.3 | Section 93 |

| ROLES AND RESPONSIBILITIES IN THE EA PROCESS | | |
|---|---|---|
| **Topic** | **Section in the TOC** | **Act provision** |
| Environmental Assessment Office | 4.2.1 | Sections 58, 59 and 60 |
| Project Registry | 4.2.2 | Sections 61 and 62 |
| Project Committee | 4.3 | Sections 9 and 10 |
| First Nations | 4.4 | N/A |
| Public | 4.5 | Sections 11 and 16 |
| Ministers | 4.6 | Sections 20 and 30 |
| EA Board | 4.7 | Sections 48 to 51 |
| Cabinet | 4.8 | Section 34 |



**THE APPLICATION**

| Topic | Section in the TOC | Act Provision |
|---|---|---|
| Content of the Application | 5.1, Appendix 4 | Section 7(2) |
| Submission and Acceptance of the Application by the EAO | 6.1 | Sections 7 and 8 |
| Request For Concurrent Permit Review | 6.2 | Sections 25, 27 and 28 |
| Amending the Application | 6.3 | Sections 12 and 13 |

**STAGE 1: THE APPLICATION REVIEW**

| Topic | Section in the TOC | Act Provision |
|---|---|---|
| Notification of the Application Review | 7.1 | Section 16 and 17 |
| Public Consultation on the Application | Appendices 5 and 6 | Section 16 |
| Comments on the Application and Proponent Response | 7.2 | Section 16 and 18 |
| Assessment of the Adequacy of Consultation | 7.3 | Section 14 |
| Referral of the Project Committee Recommendations on the Application | 7.4 | Section 19 |
| Ministers' Decision | 7.5 | Section 20 |

**MORE INFORMATION NEEDED: PREPARATION OF PROJECT REPORT SPECIFICATIONS**

| Topic | Section in the TOC | Act Provision |
|---|---|---|
| Draft Project Report Specifications | 8.1 | Sections 21, 22 and 23 |
| Notification of the Draft Project Report Specifications Review | 8.2 | Sections 16 and 17 |
| Public Consultation on the Draft Project Report Specifications | Appendix 6 | Section 16 |
| Comments on the Draft Project Report Specifications and Proponent Response | 8.3 | Sections 16, 17 and 18 |
| Finalizing the Project Report Specifications | 8.3 | Section 24 |

### STAGE 2: THE PROJECT REPORT REVIEW

| Topic | Section in the TOC | Act Provision |
|---|---|---|
| Content of the Project Report | 9.1 | Section 24 |
| Submission and Acceptance of the Project Report by the EAO | 9.1 | Sections 24 and 26 |
| Notification of the Project Report Review | 10 | Sections 16 and 17 |
| Public Consultation on the Project Report | Appendices 5 and 6 | Section 16 |
| Comments on the Project Report and Proponent Response | See 7.2 | Sections 16 and 18 |
| Assessment of the Adequacy of Consultation | See 7.3 | Section 14 |
| Referral of the Project Committee Recommendations on the Project Report | See 7.4 | Section 29 |
| Minister's Decision | See 7.5 | Section 30 |

### STAGE 3: EA BOARD PUBLIC HEARING

| Topic | Section in the TOC | Act Provision |
|---|---|---|
| Draft Public Hearing Terms of Reference | 11.1 | Sections 31 and 32 |
| Public Consultation on the Public Hearing Terms of Reference | 11.1 | Sections 16 and 18 |
| Notification and Conduct of Public Hearings | 11.2 | Sections 16, and 52 to 54 |
| Report of the EA Board | 11.3 | Section 33 |
| Cabinet Decision | 11.3 | Section 34 |

### COORDINATED EA AND PERMIT REVIEWS

| Topic | Section in the TOC | Act Provision |
|---|---|---|
| Coordinated EA and Permit Reviews | 12 | N/A |

### CONCURRENT REVIEW OF THE APPLICATION AND PERMIT APPROVALS

| Topic | Section in the TOC | Act Provision |
|---|---|---|
| Concurrent EA and Permit Reviews | 13 | Sections 25, 27 and 28 |

**CERTIFICATION**

| Topic | Section in the TOC | Act Provision |
|---|---|---|
| Certification | 14 | Sections 5, 6 and 35 to 38 |
| Amendments to Certificates | 14 | Section 75 |

**PROJECT IMPLEMENTATION**

| Topic | Section in the TOC | Act Provision |
|---|---|---|
| Monitoring Project Effects | 15.1 | Section 38 |
| Evaluation and Reporting | 15.2 | Section 38 |
| Compliance and Enforcement | 15.3 | Sections 5, 6, 67 to 74 and 76 |

**TIME LIMITS**

| Topic | Section in the TOC | Act Provision |
|---|---|---|
| Time Limits for Reviewing the Application (stage 1) | 16.1 | See *Prescribed Time Limits Regulation* |
| Time Limits for Reviewing the Project Report Specifications | 16.2 | See *Prescribed Time Limits Regulation* |
| Time Limits for Reviewing the Project Report (stage 2) | 16.3 | See *Prescribed Time Limits Regulation* |
| Time Limits for the Public Hearing (stage 3) | 16.4 | Sections 32 and 52(2) |
| Time Limits for Concurrent Issuance of Permit Approvals | 16.5 | See *Prescribed Time Limits Regulation* |

**OTHER FEATURES OF THE ACT**

| Topic | Section in the TOC | Act Provision |
|---|---|---|
| Public Advisory Committees | 4.4.1 | Section 11 |
| Participant Assistance | 4.4.2 | Section 65 |
| Guidelines for Review Under Other Enactments | 18.1 | Section 40 |
| Category Assessments | 18.2 | Section 3(2) |
| Review of Other Matters | 18.3 | Sections 51(1) and 88 |